

Serious Incident Report no. 424

Reporting date: 26/08/2016 02:21 PM

Last modification date: 12/04/2017 10:46 AM

Reporting person: Text Removed -
Justification 1

Last modification done by: Text Removed -
Justification 1

FSC SIR Category	2 Fundamental Rights
Subject	Testimonies on denial of access to asylum procedures
Type of SIR	1 Initial SIR
JORA Incident number (if any)	
Joint Operation	FOA 2016 land on border surveillance / WB
Frontex SIR Coordinator	
Incident date/time	11/08/2016 02:15 PM
Detection date/time	26/08/2016 02:15 PM
Original source of the information	Direct testimony received by UNHCR
Location of the incident	Croatian - Serbian Border
Is latitude unknown	Yes
Latitude	
Is longitude unknown	Yes
Longitude	
Reference to the operational area	No
Frontex resources involved (Human resources / co-financed technical equipment)	No
Type of resources / involvement	
Dead persons	
Injured persons	
Missing persons	

Fact of the case

UNHCR has received testimony from third country nationals who claim to have been apprehended by the Croatian Authorities inside Croatian territory and forcefully brought back to Serbia. In these cases, third country nationals did either not have an opportunity to seek asylum or clearly articulated an intent to seek asylum which was not taken into account by the authorities. The apprehensions were followed by expulsions through the Croatian-Serbian border reportedly undertaken arbitrarily, without an individual assessment through a formal procedure. Testimony of events on 11 August - The account was provided by a person who travelled within a group of four adults from Afghanistan and Pakistan. The group crossed the Croatian/Serbian border by foot in the proximity of the B&H border, likely near the crossing points of Tovarnik and Bajakovo.

Measures

UNHCR continues to collect information on these incidents, which have also been brought to the attention of the Croatian Authorities. On 11/04/2017 request to nfpoc Croatia by FRO for additional findings with deadline 26 April 2017 (doc attached).

Assessment

Reporting Serious Incidents to Frontex (*)*Whom to address it to?*

Frontex Situation Centre Senior Duty Officer
with cc to Frontex Fundamental Rights Officer

1. Reporting person / organization

Organization name: UNHCR

Reporting/contact person: Text Removed - Justification 1

2. General information on the incident

Subject: Testimonies on denial of access to asylum procedures, arbitrary expulsion and ill-treatment of third country nationals at the Croatian-Serbian border.

**Frontex Activity/
Joint Operation:** JO Flexible Operational Activities 2016 Land

Location of the Incident: Croatian/Serbian border (believed to be in or around Text Removed - Justification 6)

Incident date/time: 11 and 14 August 2016

Info Finding date/time: 16 August 2016

Information source: Direct testimony received by UNHCR

3. Facts of the case

UNHCR has received testimony from third country nationals who claim to have been apprehended by the Croatian Authorities inside Croatian territory and forcefully brought back to Serbia. In these cases, third country nationals did either not have an opportunity to seek asylum or clearly articulated an intent to seek asylum which was not taken into account by the authorities. The apprehensions were followed by expulsions through the Croatian-Serbian border reportedly undertaken arbitrarily, without an individual assessment through a formal procedure.

Below is a summary of two relevant testimonies as provided directly to UNHCR:

Testimony of events on 11 August - The account was provided by a person who travelled within a group of four adults from Afghanistan and Pakistan. The group crossed the Croatian/Serbian border by foot in the proximity of the B&H border, likely near the crossing points of Tovarnik and Bajakovo.

The testimony provided to UNHCR is summarised below:

The group crossed the border irregularly and walked for about four days, reaching the outskirts of Slavonski Brod. One of the men approached what he described as municipality workers who wore orange clothing. They asked him where he was from, and after he told them that he is from Afghanistan, they called the police. When police arrived, he was terrified due to bad experiences he had with the police in Bulgaria. At first, he was pretending that he didn't understand what they were saying in English -since those who spoke English were considered to be smugglers in Bulgaria and therefore treated badly-. Police officers managed to calm him down by saying that they are not here to hurt him and that -this is not Bulgaria-. After he calmed down, and admitted that he spoke English, the policeman kept asking him where was he from and -if he was from Syria-. He told the police that he was going to answer that question after they took him to a police station or some Court, which they denied while laughing. They also asked to see his documents but he didn't have any. He told them he wanted to apply for asylum in Croatia, but they insisted on knowing his origin and when he finally said he was from Afghanistan, he was put in a police car. After a while the police van arrived and he saw three other members of his group were apprehended. They were handcuffed and he was violently thrown in the van with them. The policemen in the van were a lot harsher, they didn't beat them but were telling them that they should go back to Serbia. They were taken near the border with Serbia and handed over to the Border police that was wearing dark blue uniforms. Quickly (10/15 minutes) they were taken down some ramshackle road, they approached a small police outpost that was located in the middle of that road. Policemen kicked them, opened an old iron gate across the road and told them to go to Germany and never return to Croatia (showing their fists as a threat what is going to happen to them if they do). On the way back to Serbia they didn't encounter Serbian police.

Testimony of events on 14 August 2016 – The testimony was provided by a child below the age of 18 from North Africa who experienced the events in the company of a young adult of the same nationality. In particular, the person reported that “My friend and I crossed the Serbian-Croatian border irregularly and entered Croatian territory. We walked about 5 km inside Croatia, using GPS. Then 7-8 Croatian police in black uniforms came. We knew it was the police. They took us to a police station, where we waited about 5 minutes until a police car came. We were put inside the car, and taken to the Serbian border. There, we were taken out of the car one by one and beaten with sticks. I said I am 17 years old, they said “F*** 17!” I fell to the ground and a man kicked me in the upper ribs. I asked for food and water, but they said “F***! Go to Serbia!”. They made me walk, and after walking away for about 8 meters, they shot a few times in the air, so I came back to Serbia.

The police did not register us and we were not fingerprinted. We were not given chance to ask for asylum in Croatia. We were not explained why we were not allowed in Croatia but returned to Serbia.”

4. Measures

UNHCR continues to collect information on these incidents, which have also been brought to the attention of the Croatian Authorities.

5. Comments

It is clear that Member States remain primarily responsible for the implementation of the relevant international, EU and national legislation as well as for law enforcement actions undertaken in their territory, including those undertaken in the contest of Frontex coordinated joint operations.

With this in mind, UNHCR would appreciate any support that Frontex can provide through its mandate and operational activities in the area to the investigation of these incidents. Likewise, we look forward to Frontex support to the setting up of further mechanisms to ensure third country nationals receive information on their rights and can effectively exercise their right to seek asylum as well as any mechanisms to prevent and address instances of arbitrary expulsion and ill-treatment.

UNHCR would also encourage Frontex to consider these reports in the implementation and evaluation of its operational activities in the area and remains available to discuss any details regarding the reception of these testimonies by our office as well as the context of events, should this be of assistance in addressing our concerns.

