

IX FRONTEX FUNDAMENTAL RIGHTS OFFICER REPORT***To: Frontex Management Board and Frontex Consultative Forum on Fundamental Rights*****20 October 2014- 15 January 2015****Overview**

- Vega Children Handbook drafted and revised after completion of Joint Operation.
- FRO participate in EU funded project to support JRO monitoring with training of monitors.
- WG on A fundamental rights-based approach to border surveillance, including cooperation with third countries, at the FRA Annual Conference

1. JOINT OPERATIONS**a) Incidents reported**

On 24 October 2014, after screening of a person in Elhovo, he approached one interpreter deployed by Frontex and declared the willingness to make an official complaint regarding misbehavior of Bulgarian police officers. This was his second attempt to enter the country, and his first attempt had taken place 8 days earlier. Together with another person, they had crossed illegally the Bulgarian-Turkish border, walked for 5 days in Bulgaria and were apprehended by police officers after surrendering voluntarily. Police officers took their belongings (money and mobile phones) and drove them with a police car to a place close to the border. They handed the migrants over to other police officers who gave them back all the belongings except their mobile phones. They forced them to go to Turkey. The Border Police Directorate in Elhovo has opened an investigation and the results will be communicated to Frontex in due course.

On 13 January 2015 an allegation has been reported by a migrant to a debriefing team deployed in Svilengrad, Bulgaria. In accordance to the information provided, the previous evening, a Bulgarian police officer had asked him for money, took it and later another police man shouted at him and punched him in the back of the neck. The person is not willing to make an official complaint, and the authorities are looking further into the allegations.

b) Other Operational projects

During this reporting period, FRO team has been very engaged in supporting Air Border Sector (ABS) in the closure of the JO Vega Children. A total of 15 experts from UNHCR, IOM, Caritas (CF members) and Terre des Hommes, had been deployed for at least two weeks in the airports of Lisbon, Amsterdam, Bucharest, Madrid, Brussels, Porto and Geneva to support border guards on identifying and referring children at risk and provide further guidance to the VEGA Children Handbook. FRO attended with great interest the debriefing of all participants that took place in Warsaw on 20 November and highlighted the excellent cooperation and focus on common objectives among border authorities and civil society/international organizations that resulted after such an initiative. After the proposals from participants were received and ABS incorporated them in the Handbook text, FRO had the opportunity to make a final round of suggestions to the team.

In the framework of the newly launched JO Triton, FRO visited the operational areas where deployed officers work in Sicily on 12-14 November. Due to extremely harsh weather conditions, there were no arrivals during the visit. Together with an officer from the Sea Border Sector, FRO had a chance to meet and discuss fundamental rights related matters with both national and seconded officers in order to understand the challenges and learn more details about the operational areas and border control tasks faced in the JO.

FRO has continued supporting Frontex Fusion Services/ Operation Division in fundamental rights related matters in the Eurosur Handbook for users. The Frontex Training Unit has approached FRO with a request to support these aspects in the upcoming trainings to National Coordination Centers in MS for the end users of the system. Due the fact that FRO has no support officer, she is not in a position to commit to support this initiative.

On 14 January, FRO provided a general briefing on Fundamental Rights in Frontex for approximately 110 officers to be deployed in the JO Focal Points Land and Coordination Points.

c) Support Frontex Monitoring System on Fundamental Rights

The draft concept note on the Frontex Monitoring System on compliance with Fundamental Rights has been internally shared for further comments, after receiving some initial feedback from CF and MB during 2014. Work in Progress.

d) Operational Plans and Evaluation Reports received during reporting period

OPPlans (JOs and PPs) 2014

REX 2014

Poseidon Sea 2014 extension / Poseidon Sea 2015

Flexible Operational Activities 2015

FERs JOs/PPs

EPN Indalo 2014

EPN Hera 2014

EPN Hermes 2014

Focal Points Sea 2014

Flexible Operational Activities 2014
VEGA Children 2014
Alexis 2014

FRO has provided observations annexed to the FER VEGA Children 2014. Participation in the debriefing and evaluation meeting has proven to be a useful exercise for the timely completion of this task.

FERs JROs

JROs to Pakistan (2 JRO), Albania, Albania and Serbia, DRC, Kosovo, Georgia (2 JROs), Russian Federation, Serbia and Nigeria.

2. CAPACITY BUILDING

Together with the Frontex Return Sector and the Fundamental Rights Agency, FRO has been actively supporting the ICMPD project on Forced Return Monitoring (FReM) during the training for monitors in Vienna, 17-19 November. FRO focused on the fundamental rights impact of forced return with special emphasis on the use of force. Participants include civil servants from national human rights institutions in the process of setting up their monitoring mechanism for forced return operations as well as some NGOs entrusted with this task. Frontex Legal Unit supported in the session on 3-4 December 2014.

On 10-14 November, the FRO intern supported the Return Sector and Training Unit with the delivery of the aspects on fundamental rights of the training for escorts in Tbilisi, Georgia. The escorts will be participating in the collecting JRO that Georgia and EU MS may organize in the future.

3. FUNDAMENTAL RIGHTS STRATEGY

As previously reported, FRO team has started the update and revision exercise of the Frontex Fundamental Rights Strategy and the Action Plan. The exercise includes an update on the implementation reported so far by the various Units within Frontex, and a compilation of recommendations provided by several IOs and NGOs to Frontex since 2012. FRO decided to stall the analytical process and include the 2014 progress in Frontex in order to analyze the entire compilation before internal discussion starts. FRO team will design a roadmap for finalization of the revision exercise during 2015.

4. RELATIONS WITH EU INSTITUTIONS, OTHER FUNDAMENTAL RIGHTS ORGANIZATIONS AND BODIES

The CF meet on 20-22 October in Warsaw to support Frontex and MB in the fundamental rights aspects of their joint initiatives. The meeting resulted in a very constructive discussion with the Frontex units and also an excellent opportunity to prioritize the work of both CF and FRO in support to the identified needs for assistance.

The European Ombudsman opened an own- initiative inquiry concerning Frontex on the issue of Joint Return Operations in October 2014. EO submitted a letter to Frontex with several questions to be answered and included a specific question for FRO and her role in the JRO. The EO officer in charge of the inquiry visited Frontex in October, conducted a documentary inspection and also met with FRO to understand the scope and content of the role in this type of operations.

During the MB meeting on 26-27 November, FRO reported about her regular activities, receiving positive and constructive feedback on the progress and challenges observed during the period covered in the latest two regular reports. On 13 January FRO took part in the Focus Group meeting between selected CF members (UNHCR, ECRE, CoE, JRS, CCME), Management Board representatives (Austria, Bulgaria, France, Greece, Italy, Slovenia, Sweden, Switzerland and The Netherlands) and Frontex colleagues to informally discuss and exchange views on issues related to CF recommendations on the Poseidon Programme, following CF visit, and on five main areas identified for discussion, after the CF visit to Bulgaria in 2014, concerning the organisation of Joint Operation. The meeting took place in a spirit of open dialogue and mutual cooperation.

FRO participated in the Annual Fundamental Rights Conference organized by the Fundamental Rights Agency (FRA) in Rome on 10-11 November, focus on migration to the EU. Among other distinguished guest, the Conference was opened by the then recently appointed Commissioner for Migration Avramopolous. FRO participated as panelist in the Working Group 1 on the topic "A fundamental rights-based approach to border surveillance, including cooperation with third countries" together with the Italian Director of Immigration and Borders [REDACTED] the European Commission and UNHCR representative to Spain. As conclusions on the topic, the participants discussed and agreed on the following:

- An effective search and rescue mechanism based on solidarity, which can respond to the current challenges in the Mediterranean, is needed to reduce the risk to people's lives at sea.
- A system to monitor the recording and identification of deaths at sea should be set up.
- While the principle of non-refoulement is universal, grey areas remain where more legal clarity is needed, for example as regards disembarkation of people rescued at sea by commercial vessels.
- Independent monitoring at borders would enhance accountability and reduce the risk of fundamental rights violations.
- Cooperation with third countries in the field of border management must respect fundamental rights, and practical guidance to support Member States in this regard could be considered.
- More transparency about agreements (even if technical or operational in nature) concluded with third countries would prevent the blurring of responsibilities.
- The use of EU funding for activities in third countries, especially with regards to the management of migratory flows and their impact on fundamental rights, should be monitored more systematically. In this context, Immigration Liaison Officers present in the countries of origin and transit could also play a role.

Brief highlights of the conference conclusions in several languages are available at: <http://fra.europa.eu/en/publication/2014/fundamental-rights-conference-2014-conclusions>

On 3 December, FRO attended the presentation of the FRA newly launched reports on the situation of third country nationals at the EU external border in land and in airports.

Frontex and FRO had previously had a chance to contribute to these researches and provided comments and suggestions. The reports are available at: <http://fra.europa.eu/en/theme/asylum-migration-borders>

FRO also contributed actively to support Relex EU team and OPD to the preparations for Frontex participation in the UNHCR High Level Dialogue on Migration that took place in Geneva on 10-11 December. On the margins of the meeting, Frontex DED met with the Directors of EASO and UNHCR Bureau for Europe to discuss the strengthening of the tripartite cooperation in the operational areas and on training matters.

In the same line of cooperation, FRO participated together with Frontex Training Unit on 16 December in Brussels in the kick off meeting of the project to revise the EASO module on "Fundamental rights and international protection in the EU" together with UNHCR, NGOs and academia as well as asylum experts from MS. The project will serve asylum authorities and also border guard to acquire the required knowledge on asylum matters as foreseen in the Asylum Procedure Directive (recast) from 2013.

On 12 January 2015 FRO attended in Vienna the internal FRA meeting of the asylum and border unit and discussed strategic priorities with Frontex on FR at the borders for 2015.

5. MISCELLANEUS

FRO has provided submissions to the Frontex Multi annual staff policy and internal rules of procedure on staffing related matters. Necessary staffing support to fulfil the existing tasks and responsibilities of FRO, as regularly reported, require further consideration by the Frontex management in the near future.

The former FRO trainee, [REDACTED] finished his term on 15 December 2014. A new intern, [REDACTED] was selected during December and will start the internship in Frontex on 16 January 2015.

6. PLANNED ACTIVITIES AND UPCOMING EVENTS

12 February: CF Meeting

18-19 February: MB Meeting

7. FRO RECOMMENDATIONS

1. Frontex Training Unit and FRO will discuss with the Frontex Units the training needs on fundamental rights matters in February. FRO welcomes the increased engagement of the CF in these matters and might need to seek further engagement from MSs on evaluate the same matters in the national structures with focus on areas where Frontex provides support.
2. In the development of the monitoring mechanism, further strengthening on the verification of the information and follow up mechanisms to SIRs on fundamental rights in MSs will be discussed in the upcoming period.
3. Participation in the debriefing of JO VEGA Children (ABS) has proven to be a useful exercise for the timely completion of the FRO task to provide observations annexed to the FERs of the operation. The recommendation has already been discussed with the Head of JoU.

