

**XI FRONTEX FUNDAMENTAL RIGHTS OFFICER REPORT*****To: Frontex Management Board and Frontex Consultative Forum on Fundamental Rights*****1 March- 17 August 2015****Overview**

- Four SIRs reported in Bulgaria, Greece and Spain.
- JO VEGA Children Phase one completed
- FRO supports the development of Fundamental rights aspects of technical assistance projects in Morocco, Tunisia (ENPI) and Western Balkans and Turkey (IPA II).

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

1. During a debriefing on 13 March performed in Elhovo (Bulgaria) an Iraqi national claimed that it was his fourth attempt to reach the EU, as he had already earlier tried twice to enter Greece and once Bulgaria but each time he had been intercepted by Member States (MSs) police officers and brought back to Turkey. The first time by sea to Greece in a group of about 70 persons. They were intercepted by the police on an island and allegedly brought to a seaport where a boat with Greek police officers was waiting and took them back to Turkey. The second time, he attempted to cross the land border on a fake passport and the Turkish authorities arrested, allegedly beat him and sent him to a refugee camp at the border with Syria. The third time, he crossed in group the land border to Bulgaria and was apprehended by Bulgarian police. The police allegedly took their mobile phones and money and instructed them to walk towards a light in the horizon. After a while, they were arrested by Turkish police. The migrant decided not to file an official complaint.

2. During a debriefing interview in Kapitan Andreevo, Bulgaria, an Iraqi national stated that he was arrested with other migrants by the Bulgarian police around 28 March during an attempt to enter Bulgaria. The Bulgarian police allegedly took their belongings (mobile phones, jewels, sunglasses, but no money) and brought them back to Turkey through a door in the fence between Bulgaria and Turkey. When the persons were

walking through the fence, one of the police officer fired a shot in the air with his service weapon. Based on pictures presented, the migrant claimed that the incident took place in the area of BCP Lesovo. The migrant expressed his willingness to make an official statement to report the incident to the Bulgarian authorities and the investigation was opened.

3. On 11 May, during a debriefing interview in Orestiada, Greece, a Syrian national apprehended the night before in the area of the border close to BCP Ormenio, claimed that in a group they crossed the river Evros to reach Svilengrad, but did not know in what country they were once they crossed the river. The group walked a few hours and got lost on the way. They saw torch lights and two policemen appeared and they asked for help. They were detained and after the arrival of another police car the group was divided, not knowing where they were going. The person and his family were put in a car. After some time the car stopped and police sent him and his family out, indicating the way ahead. After some time walking they were detected by Hellenic police who arrested them in Ormenio area as informed by Greek authorities. The person stated that the police in the car wore dark green uniform and surely they were not Hellenic police. No follow up or further information has been received on this case.

4. On 4 August, two Moroccan nationals who claimed to be minors were detected hiding in a truck in the port of Ceuta. The truck was about to drive onto the ferry to Algeciras. The minors were brought to the police office at Ceuta's port. An officer of Cuerpo Nacional de Policia (CNP) handcuffed and hit the minors in the face twice. These actions were witnessed by GOs who asked the CNP officer to stop. The two minors have been brought to the Children Protection Center in Ceuta. The CNP officer is not deployed within the JO EPN Minerva 2015. The ICC has informed that an official inquiry has been opened against the police officer and that they will keep Frontex informed about the outcomes of the investigation.

#### **1. Other Operational projects**

On 4 March, at the Operational Heads of Airport Conference, the Fundamental Rights Officer (FRO) together with the Chair of the Consultative Forum (CF) and the Head of the Air Borders Sector (ABS) provided a presentation about the VEGA Children Handbook and the JO VEGA Children 2014, highlighting the importance of the matter to provide for adequate attention, training and resources for border guard authorities to identify children at risk at the EU external borders. It should be mentioned that the Frontex Annual Risk Analysis Report 2015 has also put emphasis on this matter among the outlook of the issues that require further attention from the EU MSs.

On 19 May, FRO provided a briefing for the third country observers in the ABS JO Alexis 2015. The presentation focused on the tools available within Frontex for ensuring fundamental rights (FR) compliance during JOs as well as the main FR challenges that officers and observers could face during the JO.

On 11 June, FRO participated in the VEGA Children pre deployment briefing and provided a presentation on the FR in Frontex, the FR Strategy and the mandate of the FRO. On 10 July, at the end of phase I of the JO VEGA Children 2015, FRO also joined the post debriefing to gather suggestions and experiences from participants, both from the CF and the border guards.

Coinciding with the EPN Indalo, FRO received an invitation to present FR in Frontex JO from the Spanish Guardia Civil, as a panelist in the Workshop on Joint Sea Border Operations in Malaga on 17 June. The presentation was specially focused on the FR

aspects and safeguards of the 656/2014 Sea Border Surveillance Regulation and the fundamental rights related aspects on the situation in the Mediterranean, including international protection and trafficking in human beings. The panel was shared with members of UNHCR Spain and Red Cross Andalusia who provided very interesting perspective from international law and national situation, which completed the EU perspective provided by FRO.

## **2. Support Frontex Monitoring System on Fundamental Rights**

On 1-3 July, FRO visited the JO Flexible Operational Activities (Land Borders) at the Hungarian Serbian Border to observe the situation once the composition of the flows has changed and a majority of Syrian and Afghan nationals are crossing the border in an irregular manner and are submitting requests for international protection in very high percentage upon arrival to the EU (85 to 95% depending on the week). When FRO made a similar visit in February, the flow was a mixed one of larger percentage of Kosovo Albanians with a lesser number of Afghans and Syrians, albeit the fluctuation of nationalities was at the time changing daily and rapidly.

The Hungarian authorities seem to have made substantial efforts to provide with first reception capacity to cope with the flows, often reaching over 1000 persons daily. On the ground, FRO learnt about JO activities and observed a gap in the assistance provided by civil society experts (Foundation Mederik) due to the end of the project financed from the European Return Fund. Furthermore, FRO confirmed that JOU and Hungarian authorities are considering the deployment of screeners in order to support the national capacity to identify and register persons within the 24 hours deadline and avoid longer first reception time. FRO also discussed with UNHCR representatives about the need to support the structuration of first reception capacity. Further discussion with relevant stakeholders, notably EASO, on the need to ensure further support in the current record level reception needs to follow.

## **3. Operational Plans and Evaluation Reports received during reporting period**

### **OPLANS**

JO EPN Indalo 2015  
JO Pegasus 2015  
JO VEGA Children 2015  
JO EPN Minerva 2015  
JO EPN Hera 2015

### **FERs**

JO EPN Poseidon Sea 2014  
JO EPN Triton 2014  
JO Attica 2014  
JO Poseidon Land 2014  
JO FP 2014 Air - Regular Officers  
Pilot Project VEGA Children Handbook 2014

### **FER JROs**

JRO organized by Germany to the FYROM and Serbia on 17.03.2015  
JRO Hungary to Kosovo on 26.03.2015  
JRO Norway to Nigeria on 11.03.2015  
CJRO Germany to Georgia on 24.03.2015  
JRO Germany to Georgia on 23.04.2015

JRO Austria to Kosovo on 15.04.2015  
JRO Spain to Pakistan on 24.04.2015  
JRO The Netherlands to Nigeria on 15.04.2015  
JRO Sweden to Albania on 21.04.2015  
JRO Germany to FYROM and Serbia on 20.05.2015  
JRO Hungary to Kosovo on 07.05.2015  
JRO Germany to Kosovo on 19.05.2015  
JRO Austria to Kosovo on 15.04.2015  
JRO Spain to Pakistan on 24.04.2015  
JRO Sweden to Albania by on 16.06.15  
JRO Belgium to the DRC on 17.06.2015  
JRO Germany to Albania on 26.06.2015  
JRO Austria to Nigeria and Cote d'Ivoire on 24.06.2015  
JRO Germany to Kosovo on 25.06.2015  
JRO Spain to Albania and Georgia on 23.07.2015  
CJRO France to Albania on 28.05.2015  
CJRO France to Albania on 24.03.2015

## **2. CAPACITY BUILDING**

On 10 March, and invited by Relex third country (TC) team, FRO participated in a Steering Committee meeting on the IPA II Project "Regional support to protection sensitive migration management in the Western Balkans and Turkey". Financed by DG NEAR, Frontex is currently leading the phase related to needs assessment. FRO continues to contribute with comments and suggestions during the process upon request.

In order to continue with the internal awareness raising strategy on fundamental rights matters, FRO and Information and Transparency (I&T) wrote an article on "The Role of Border Guards in Access to International Protection" for the Frontex- internal INFORMER. The content is based on the provision of the recast Asylum Procedure Directive (APD) that has served also as the basis of increased cooperation with key external actors (EASO, UNHCR, FRA) and will require reinforcement of training capacities for border guards in MSs on access to international protection procedures. The support to the EASO module on "Fundamental Rights and International Protection on the EU" from FRO and other stakeholders is directed to support these efforts.

On the same scope of activities, on 24 June, FRO and I&T organized an awareness session on the role of border guards in access to international protection. Introduced by Frontex Executive Director (ED), with speakers from EASO and UNHCR. They explained the latest record figures on displacement in 2014 and the scope and implications of the ADP for the daily work of border guards, respectively.

On 22 May, in the framework of the European Day for Border Guards, FRO moderated a panel discussion on "Children at the borders: can we do better?". During the panel discussion, the subject of children at the borders was discussed from different perspectives, with speakers from Save the Children, IOM, the Moldovan Police Department and Garda National Immigration Bureau from Ireland. The speakers discussed the challenges of working with children and stressed the importance of cooperation with different actors in a multifaceted way in order to be able to deliver better identification and protection to minors at risk. This involves the cooperation of such actors as Frontex, IOM, UNHCR with NGOs, as well as the cooperation between police and border guards.

On 26-27 May, FRO participated in the Workshop organized by the Relex TC team in Rabat, Morocco. Frontex Thematic Workshop - "Promoting the participation of Morocco and Tunisia in the work of EASO and Frontex", with Jordan attending as observer. The workshop aimed to introduce the work of the Agency to the various authorities within the project, and FRO focused on the fundamental rights tools and scope of the work. In the framework of this project, a visit to Tunisia to explore possibilities for the organization of this workshop took place on 24-26 April, where FRO also introduced the topic to Tunisian authorities.

On June 22, FRO was invited to the EUROSUR National Coordination Centers (NCC) operators development training material session by RDU. FRO team will support the development of fundamental rights related cases for the Virtual Aula, and FRA will support the process at a later stage.

### **3. FUNDAMENTAL RIGHTS STRATEGY**

As previously reported, FRO team designed a roadmap for finalization of the Fundamental Rights Strategy (FRS) and Action Plan revision exercise during 2015 that was presented also to MB and CF. FRO team has started the update and revision exercise of the FRS and the Action Plan that include an update on the implementation reported by the various Units within Frontex, and a compilation of recommendations provided by several EU Institutions/Bodies, IOs and NGOs to the Agency since 2012.

During the second half of 2015, and after initial consultations with the relevant Divisions and Units of Frontex, FRO team will undergo an intensive analysis of the implementation and revert feedback on the conclusions observed. In May- June, a specific IT tool to facilitate internal consultation has been designed with the support of ICT and FRO team held numerous internal meetings to introduce to the revision roadmap and request initial feedback from all Frontex Units to the progress report compiled by FRO team. Next steps include the support of an already selected researcher to conduct and consolidate the analysis and consultations with CF and MB before the end of the year on the initial findings and conclusions.

In parallel to this revision of FRS, FRO has been supporting the CF focal point for gender (IOM) in gathering information to assess how Frontex addresses gender issues in its activities. The work is aiming to provide an overview of the current situation and future needs of gender and border management in Frontex activities with a view to possibly highlight these aspects in the revision of the FRS. The topic of gender and borders, including but -clearly- not restricted to trafficking in human beings, seems to be a focus on increased academic attention, and Frontex is increasingly receiving requests from researchers with specific questions in this regard. FRO supports the drafting of answers with contributions from the respective Divisions.

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

On 20 April, ED and FRO, together with the Director of Frontex Operations Division attended the Annual Strategic Coordination Meeting with UNHCR Director of the Europe Bureau, [REDACTED], and [REDACTED] team in Warsaw. The meeting aimed at facilitating an open dialogue on current priorities and challenges in the light of the strategic guidelines set by the European Council. Both Frontex and UNHCR agreed on the importance of strengthening bilateral partnership and working to promote a full understanding of



Frontex and UNHCR's respective mandates and cooperation at the field level especially in the areas of operational cooperation, risk analysis and training.

At the end of April, a new visit of the "informal EASO- Frontex working group on referral mechanism" visited Sicily and the JO Triton areas in order to learn how the referral mechanism of persons seeking international protection upon arrival to Italy works and how the support from both EASO and Frontex can be better coordinated on the ground. The visit coincided with the preparation of the II EASO support plan to Italy.

On 6-7 May, the CF met for the first time in Brussels at the premises of the Frontex Liaison Office. The discussion focused on implementing the already adopted Program of Work with Frontex units. Respective minutes are available separately.

On 15- 16 June, FRO was invited by the Moroccan authorities as panelist to the first Workshop on Asylum and Migration in the framework of the Rabat Process. The thematic workshop gathered more than 120 participants and experts from nearly 50 countries and international organisations in Rabat. This meeting reflected the new priorities defined as the fourth pillar of the dialogue concerning the promotion of international protection, and responds particularly to the pressing need to provide the necessary protection to refugees in the region. The main objective of the meeting was to identify ways to strengthen and develop national protection systems with a view to improving cooperation within the Rabat Process region. FRO focused on fundamental rights safeguards during JOs coordinated by Frontex and in particular, the Regulation 656/2014 on sea border surveillance operations.

On 18 June, FRO appeared before the Subcommittee for the Prevention of Torture (SPT) of the United Nations in Geneva. The mandate of the SPT is threefold: to visit places of detention in States Parties; to advise and assist both States Parties and National Preventive Mechanisms concerning their establishment and functioning and to co-operate with other international, regional and national organisations and institutions working to strengthen protections against torture and ill-treatment. FRO provided an overview of the Frontex activities and focused on the JROs and the monitoring of return flights. It was a very interesting exploratory meeting, as it opened venues for cooperation also with National Preventive Mechanism of Torture (NPM) with countries inside and outside the EU. FRO used the opportunity to meet with the Migration Unit of the United Nations High Commissioner for Human Rights (OHCHR) to discuss possible cooperation around the recently published "principles and guidelines on human rights at international borders"<sup>2</sup>. OHCHR's Recommended Principles and Guidelines on Human Rights at International Borders contains three recommended principles, all of which are derived from international human rights law and establish the obligation of States to protect, respect and fulfil human rights of all migrants at international borders.

On 30 June, the LIBE and PETI Committees of the EP hold a stakeholders meeting on the issue of EO report on individual complaints mechanism currently under discussion at the Parliament. The matter was presented to the EP as an EO recommendation for Frontex. FRO suggested to limit the discussion to the complexity and limitations for Frontex to deal with complaints against host MS officers, as complaints against Frontex staff and participating MS officers could fall under the remit of Frontex to process and be submitted to respective authorities for investigation. The crucial involvement of MS authorities in charge of conducting investigations and the need for additional staffing resources to the FRO in case the mechanism is established were also highlighted.

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<sup>2</sup> Available at [http://www.ohchr.org/Documents/Issues/Migration/OHCHR\\_Recommended\\_Principles\\_Guidelines.pdf](http://www.ohchr.org/Documents/Issues/Migration/OHCHR_Recommended_Principles_Guidelines.pdf)

FRO and CF Chair met jointly the EU team of UNICEF on 30 April. FRO focused on the developments on VEGA Children Handbook and JO and the cooperation among organisations and border authorities within that framework. Taking into account that the above-mentioned Handbook was designated for Air borders, FRO explained that the plan is to draft similar Handbooks also for Land and Sea borders. They agree to be kept in the radar for possible participation in workshops and meetings where comments are provided. Furthermore, UNICEF proposed more cooperation with Country of Origin Information (COI) on the situation of children, root causes and migration routes as they are intensifying efforts in this respect. The information has been transmitted to RAU/OPD.

## **5. MISCELLANEUS**

FRO has provided all support to the preparatory work for the public call for civil society organisations to become members of the CF, in coordination with Legal Affairs Unit, Relex-IO and MB. The new decision on a new composition of the CF should be adopted during MB meeting on 9-10 September.

## **6. PLANNED ACTIVITIES AND UPCOMING EVENTS**

25 August: pre deployment briefing VEGA Children

9-10 September: MB meeting, Warsaw

4-5 November: CF meeting, Warsaw

25-26 November: MB meeting, Warsaw

## **7. FRO RECOMMENDATIONS**

FRO recommends the members of the Management Board to take into consideration the aspects of monitoring of JROs in relation to the strengthening of the Frontex mandate in return matters proposed by the Council Conclusions of June 2015, and encourage consideration to the available mechanisms in the MSs and also by ICMP roster of monitors, to ensure that all JRO are effectively monitor.

