

**VI FRONTEX FUNDAMENTAL RIGHTS OFFICER REPORT*****To: Frontex Management Board and Frontex Consultative Forum on Fundamental Rights*****9 March- 16 April 2014****Overview**

On 15 April Frontex received a SIR report on an incident close to Kos Island in Greece where an alleged facilitator was fatally injured after an attempt to apprehend him by the HCG. FRO has provided fundamental rights comments and suggestion to various Operational Plans for 2014.

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

On 15 April Frontex FSC received a SIR from the Poseidon Sea ICC Coordinator in Greece. After disembarking several migrants in the island of Kos, the facilitator was heading back to Turkey in the speedboat. The HCG boat crew tried to immobilize the boat with the use of warning shots but the person allegedly tried to escape and to ram the HCG boat. The incident resulted in the death of the facilitator. The case is currently under investigation by the Kos District Attorney.

As a follow up to the pending SIR from 2013 and in order to strengthen the cooperation and exchange of information related to incidents occurring in the operational area of Poseidon, FRO visited Athens on March 12-13 and met with the focal points for FR of the HCG and the HP. The meeting also attended by the HP Head of Aliens Division Alexander Sukulis. An initial exchange of information on the status of several SIR and other cases reported to FRO by other means was discussed and updated. The plans of the Hellenic authorities on trainings for Border guards based on the Frontex Handbook of Fundamental Rights for Border Guards were also explained. Follow up on the exchange is ongoing and intends to be regular by all parties involved.

**b) Joint Operations**

FRO participated in a JRO organized by Spain to Serbia and FYROM on 21 March, with the participation of Germany and France -total number of returnees 29- and also monitored by representatives of the Spanish Ombudsman Office. The operation ran smoothly and without incidents. FRO had the opportunity to observe the treatment of families with small children during a JRO and also to obtain information on the experiences from the two doctors present in the flight (Spain and Germany). The observations have been preliminarily shared with the Frontex Return Operations Sector and the topics of families/ children and fit to fly declaration will be taken into account during the update of the Frontex Best Practices on JRO in the near future.

The day before the flight FRO visited the Aliens Commissariat of the Spanish National Police, where, hosted by the General Commissioner, she met with all relevant officers that deal with Frontex related matters and got information about the current projects and plans on fundamental rights from the Spanish National Police, with emphasis in minors and victims of trafficking.

FRO has revised and provided comments and suggestion to the following Operational plans during the reporting period:

1. EPN Hermes 2014
2. Flexible Operational Activities 2014
3. Focal Points Land 2014
4. Focal Points Sea 2014
5. Poseidon Land 2014
6. Poseidon Sea 2014
7. Project Attica 2014

In general terms, FRO has focused the exercise of revision in suggesting further guidance for EBGT members on how to implement the obligation to refer vulnerable persons to the competent authorities in operational areas of some key operations, as mandated by the OPlans and Frontex CoC. In the view of FRO, this obligation appeared to require more development in the annexes to the OPlan for GO and SGO to have clear guidelines about their obligations towards vulnerable persons. During the first year in the post, FRO considers and suggested to prioritize guidelines for asylum seekers, minors and victims of trafficking. Additionally, the issue is meant to be specifically included in the host MS pre deployment briefing.

FRO has also participated in several internal Frontex exchanges and supported LEG with some fundamental rights considerations aiming at preparing the implementation of the new Regulation on Sea Border Surveillance Operations coordinated by Frontex.

#### **c) Other Operational projects**

VEGA Handbook on Children at risk at airports is at the stage of incorporating final comments and almost ready for edition. FRO and THB Coordinator have exchanged initial ideas on how to implement further the project and ensure wide and constructive participation in the pilot exercise that would serve to test the usefulness of the Handbook.

#### **d) Support Frontex Monitoring System on Fundamental Rights**

FRO has been working in preparing her forms and material to support monitoring activities.

#### **e) Evaluation Reports**

FRO has received Evaluation Reports from several JRO to Pakistan, Nigeria, Georgia, Columbia and Dominican Rep, Kosovo, FYROM and Serbia, Albania and BiH.

FRO has also received the following Evaluation Reports in the reporting period:

- Coordination Points 2013
- Focal Points Air 2013
- PP Reference Manual 2013
- PP Vega Children 2013

All the reports are being compiled and registered for assessment.

## **2. CAPACITY BUILDING**

FRO has had further exchange with JoU and TRU on the content and scope of the material for pre deployment briefings related to Fundamental Rights. Depending on the type of operation in question, the allocated time for the topic might vary which is challenging for monitoring purposes. A video will be produced for briefing purposes in the upcoming weeks.

## **3. FUNDAMENTAL RIGHTS STRATEGY**

During this period, Human Resources Unit has finalized the tender to continue the training on FR for Frontex staff in 2014. The basic training will reach over half of Frontex staff after the 6 sessions planned in 2014. FRO also intends to start the discussion with the trainers and the HRU on the specific training needs of the divisions towards the development of a more advance training in the future.

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

During the stay in Athens, FRO met with representatives of the Greek Ombudsman Office to exchange views on the content of the Frontex CoC for JRO in terms of compliance with fundamental rights during return operations. The institution had approached FRO during an earlier meeting in the framework of the ICMPD Force Return Monitoring Project with an interest in properly preparing for an effective monitoring system for return operations.

Separate meetings with local members of the CF in Greece were also scheduled.

FRO also met in Madrid with representatives of the National Prevention mechanism of Torture, and with the area of migration of the Spanish Ombudsman Office. The meeting provided an opportunity to exchange information on the respective mandates and information on observations and concerns during JROs.

Even though Frontex does not have monitoring mandate in JRO, FRO considers that strengthening the cooperation with national monitoring mechanisms for return operations and increasing understanding of their interests and concerns is highly beneficial to support Frontex efforts towards the implementation of effective monitoring in all JROs.

On 25 March FRO was invited by EASO to provide a presentation -videoconference- on the Role of Border Guards in Access to asylum procedures during its Quality Matrix Meeting with MS, UNHCR and CE. FRO elaborated on the key role of border guards in identifying and referring protection needs during their daily activities of detection, rescue or interception, screening, debriefing, reception and assistance. The obligations is clearly stated in the international law as well as in the New Asylum Directive 2013/32/EU OF on common procedures for granting and withdrawing international protection (recast), Art 6.1, that obliges MS to ensure border guard authorities have the available relevant information and receive the necessary level of training which is appropriate to their tasks and responsibilities and instructions to inform applicants as to where and how applications for international protection may be lodged. In order to have a better picture of the needs of border guards in terms of international protection training or

increase information related aspects, FRO propose to systematize the collection of statistics of asylum claims at the border or immediately afterwards and distinguish them from applications made at a later stage.

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

- 5 May, SCIFA, Brussels
- 10 May, Youth Forum, European Parliament, Strasbourg
- 21 May, CF informal Meeting
- 20-21 May, MB meeting
- 22 May, ED4GB
- 27-28 May, Training for escort leaders of TCs, Tirana
- 12 June, Congress on migration and asylum, Bilbao
- Week 16-19 June, Standardized Training for Escorts, Amsterdam
- 23-24 June, ICMP workshop on monitoring return flights, Budapest

## **6. RECOMMENDATIONS**

### **TO MB**

- Support the development and implementation of the Trainers' Manual on Fundamental Rights for Border Guard in the national education systems for border guards. The course is a very important tool to ensure fundamental rights awareness and understanding on the border guard daily practices, both nationally and within Frontex Joint Operations.
- Continue the positive trend of increasing establishment of effective forced return monitoring systems in MS and also support the Frontex efforts to ensure presence of monitors in all JRO. The regular sharing of the MSs monitoring reports with Frontex will likely result in better standards effectively applied in JRO in the future.