

VII FRONTEX FUNDAMENTAL RIGHTS OFFICER REPORT*To: Frontex Management Board and Frontex Consultative Forum on Fundamental Rights***28 April- 15 July 2014****Overview**

The reporting period has been focused on various missions to attend meetings, conferences and seminars, as well as to operational areas.

The celebration on the European Day for Border Guards on 23 May provided also an opportunity to report to both MB and CF.

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

On 30 April, during debriefing interview in Orestiada a male from Afghanistan declared he had been apprehended a the Bulgarian police patrol while crossing the Bulgarian Turkish land border heading towards Greece. The person was brought together with some 3 other compatriots by boat to a small island in river Evros and allegedly they had used violence against them and stole money and mobile phone. They were then apprehended by the Hellenic Police, where the migrant made an official complaint. In a response to Frontex, the Bulgarian Border Police explained that they do not possess or patrol by boat at the border with Turkey.

On 24th June another Afghani migrant reported an incident with the Bulgarian border police allegedly beat him at the border, preventing him to enter the country. After explanation of procedures the migrant refused to make an official complaint.

On 27 June, during a screening interview in Lyubimets detention centre by BG screener and team, a migrant showed to several bruises on his body (chest, back, hands), claiming that he was beaten by guards of the Bulgaria migration service after he had resist his apprehension and expressed his willingness to join his family in France. He was not willing to make an official statement about the incident because he said he was maybe reacting too aggressively during the apprehension.

b) Joint Operations

On June 12, FRO attended in Madrid a meeting between Guardia Civil, Policia Nacional and several international organizations whose participation is foreseen in the sea border joint operations foreseen in Spain during 2014. UNHCR participated and offered briefings to participants on international matters. FRO had a chance to exchange with the attendees on human trafficking issues as well as fundamental rights matters within the operations, and Guardia civil informed on the plan to hold a specific training on this matter during the Indalo operation. Frontex THB coordinator is likely attending.

On 26-28 June, FRO also provided a presentation on fundamental rights in Frontex and those specifically related to Joint Return Operations during a training for escort leaders in JRO in Vrole, Albania. The training was designed for the first time for Third Country official and intends to ensure high standards in the flights organized from third countries to the EU. At the initiative of FRO, and with the agreement of the Albanian Police, the training was also attended by the National Preventive Mechanism against Torture in Albania, the Ombudsman Office. The Office has the mandate and is very much willing to monitor national return flights.

c) Other Operational projects

On June 17-18 FRO attended briefly an awareness session for external partners (IOs, NGOs) and also for border guards at the Schiphol Airport in Amsterdam on the VEGA Children Handbook. All participants expressed their own experiences and difficulties when dealing with children at the border; having read the draft handbook before the seminars, they all discussed and agreed on the content. Globally they were positively surprised to learn about Frontex interest on fundamental rights at such operational level, stating that this was eventually in line with real issues, especially when it comes to children trafficking and protection.

FRO has continued supporting OPD in the drafting of the Eurosur Handbook, specifically the chapter on fundamental rights, with the valuable input from the FRA in the drafting process. FRO also attended the meeting hosted by the CE on 4 July in Brussels with MS where this and some new chapters on the Handbook matter were discussed. The main controversy rests over the scope of the instructions and guidelines to be included in the Handbook, as there is still no common understanding on the idea that there is an impact on fundamental rights of the information contained in the Eurosur system - for reaction and provision of assistance upon disembarkation, for instance-, rather than restricting the scope to the direct impact of the system by itself -data protection-.

d) Support Frontex Monitoring System on Fundamental Rights

FRO team has intensively discussed and prepared an outline for the concept paper on the Frontex effective monitoring system for fundamental rights. FRO is also in touch with various stakeholders to gather additional information to support the concept, specially focused on human rights investigations at this stage. Forms and check lists are also under revision to support internal monitoring.

e) Evaluation Reports

During this reporting period, FRO has revised and provided comments and suggestion to the following Operational plans:

1. JO Pegasus 2014
2. EPN Aeneas 2014
3. EPN Hera 2014
4. EPN Indalo 2014
5. EPN Minerva 2014
6. JO Poseidon Sea 2014

Furthermore, the following FER were received:

7. JO Focal Points Land 2013
8. JO Poseidon Land 2013
9. Attica 2013

Additionally, regular FERs from JRO to Serbia, Nigeria (4 JROs), Kosovo, Pakistan (and DRC were received.

All the reports are being compiled and registered for assessment, which is planned to become a priority in August-September.

2. CAPACITY BUILDING

After consultations with JoU and TRU, FRO has recorded a short 5 minute video for pre deployment briefings related to Fundamental Rights. Initial feedback is positive on the content and dynamism, with clear key messages and obligations on fundamental rights matters during joint operations, specially related to the applicability of Charter to persons at the border when applying EU Law (SBC).

On 6 May FRO participated in a brainstorming session organized by TRU to design a road map for developing an e tool for training border guards' trainers on fundamental rights. The session, facilitated by the external consultant who drafted the Manual, resulted in good ideas on the tool, more clear deadlines and technical possibilities. Furthermore, an idea was developed to include the content on Fundamental rights of the handbook on line for all participants in the Frontex training for trainers in order to guarantee a uniform level of knowledge on the substance of fundamental rights in border guarding. The tool could be used for any other purpose: participants to operations, border guards from MS, etc.

FRO also attended the Frontex escort leaders training in Amsterdam from 16-18 June. The training is part of the regular profile training that Frontex provides for participants to the JRO. FRO had a chance to exchange and reflect also on the part related to FR and the CoC in the training, providing some ideas on the content to the trainer.

In parallel, TRU had organized with ROS a meeting with the doctors that regularly provide health care during JRO from 5 MSs. On 19 June, FRO had a chance to spend a morning working with them on a possible template to exchange medical information between doctors in a common fit to fly declaration to be used when one of the other MS's returnees is flying with medical condition in a JRO. The template could be eventually inserted in the revision of the best practices for JRO to be revised during 2014.

3. FUNDAMENTAL RIGHTS STRATEGY

Frontex Human Resources Unit has successfully organized two sessions of Basic Fundamental Rights Training for Frontex staff during the first week of July. A total of 80 participants were trained. FRO has received positive feedback from both participants and trainers. Some staff commented that the course is somehow basic for their needs, which coincides with the assessment made by the trainers that 2015 could potentially be the start of more advance and tailored internal training (for operations, for risk analysis, etc). A second round of training is planned for early September. Good progress and excellent internal cooperation and feedback.

On 16 July FRO also participated in the workshop organized by the team of external evaluators of Frontex based on Art 33 of the Frontex Regulation in order to prepare the inception report of the evaluation. Fundamental rights will be a substantial aspect of the process, and it will also include the CF in a manner still to be decided.

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

On 5 May, FRO was invited to provide a brief presentation at the SCIFA meeting in Brussels where she had an opportunity to explain the FRO Work Plan 2014. After describing the overall objective, mandate and tasks of the Frontex Fundamental Rights Officer, the presentation introduced the priorities for this year:

- Priority 1: Effective Monitoring System of Fundamental Rights
- Priority 2: Joint Operations
- Priority 3: Capacity building and Training on Fundamental Rights

FRO also had a chance to elaborate on the initial conclusions of the first 1, 5 years in the post. It became apparent at an early stage that the needs of Frontex are not so much to discuss and agree on which FR have to be respected during border guarding activities but rather on how to respect and promote all FR, because in general the Charter of FR, when applying EU law, applies to all persons including those crossing its borders. The first year resulted in a clear prioritization of three vulnerable groups for future activities of Frontex:

- Asylum seekers and refugees
- Children, especially when unaccompanied
- Victims of trafficking in human beings

Furthermore, FRO highlighted the enactment of two pieces of legislation in 2013 that touched upon FR aspects in border guarding: the amendments to the SBC (new Article 3 a)) to include clear references to FR and the international and European legal framework during its implementation. Also the recast Asylum Procedure Directive gave a clear role of information on access to asylum procedures to border guards (articles 6 and 8).

Following to the reported 25 March invitation by EASO to provide a presentation - videoconference- on the Role of Border Guards in Access to asylum procedures, FRO has drafted a concept on these tasks in identifying and referring protection needs during their daily activities of detection, rescue or interception, screening, debriefing, reception and assistance. On 21 May, EASO training center Head and Head of Operations met with Frontex Training Unit Relex team and FRO to evaluate prior joint training initiatives in Greece. Thereinafter, Frontex and ESO have started developing a concept for joint trainings to tackle the common areas of a referral mechanism in line with the obligations of the Asylum Procedures Directive, that would bring together border and

asylum authorities as part of a common training scheme, that could also serve to enhance interinstitutional cooperation.

In relation to the operational cooperation, EASO and Frontex operations and FRO travelled jointly to Bulgaria on July 7-10. The objective was to learn *in situ* about the referral mechanisms followed from apprehension to the asylum authorities in the Bulgarian -Turkish Border. With this initiative, the two agencies intend to extract the common links and enhance coordination of activities in their operational plans, including the possibility of organising Joint Teams that will support efficient and sustainable referral procedures in MSs in line with the Asylum Procedures Directive. The exercise will be repeated in another MS after the summer.

On 10 May FRO participated as panelist in the EYE event of the European Parliament within the panel "in search for a better life in Europe". After a brief presentation highlighting the main aspects of the FR Strategy, the monitoring system and the current situation in terms of fundamental rights, there was opportunity from the audience to pose very interesting and relevant questions on Frontex mandate and scope of activities.

On 23 June [REDACTED] Council SG Director for Asylum, Visa, Immigration, Borders, Schengen visited Frontex. Together with several other units, FRO had the chance to present the FR Strategy, the monitoring system concept and the CF cooperation.

On June 11, FRO introduced as key note speaker the Congress on Asylum and Foreigners Law of the Spanish Bar Association in Bilbao, Spain. After a lengthy introduction on the key aspects of the FR strategy, FRO and CF mandates and activities as well as the monitoring system, it turned into a very interesting exchange as the perceptions on the mandate were misperceived and expanded by attendants (all borders, not restricted to joint operations). FRO also attended a WG discussion on access to asylum in Spain.

FRO was invited as a panelist in Geneva during the Human Rights Council on 20 June at a side event on Migration together with ICRC, OHCHR, and the Special Rapporteur on the rights of migrants. FRO focused on the highlights of the FR strategy and the POW together with the legislative developments on the referral mechanism introduced by the Asylum Procedures Directive. Very interesting presentations to commemorate the World Refugee Day. Sadly, time did not allow much time for discussion with the audience.

On 23-24 June FRO participated in the ICMPD workshop on the guidelines for monitors for return flights in Budapest, providing numerous comments to the proposed version by the consultants. Several MS as well as monitoring mechanisms of return flights at national level attended, and the exchange was very fruitful.

On 25 June, UNHCR provided a very interesting awareness session for Frontex staff on the principle of non refoulment and its applicability to JO. High turnout and very interesting and realistic discussion.

FRO has hold bilateral meetings with FRA -bilateral- on July 2 and with UNHCR - Frontex DOPD and DCBD- on 4 July, to discuss strategic matters of common interest.

Two reports have been issued during this period:

- 'Frontex. Entre Grece et Turquie: la frontiere du deni', where the FIDH (La Federation internationale des ligues de droits de l'Homme), Migreurop and REMDH (Le Reseau euro-mediterranean des drouths de l'Homme) report on violations of

human rights at the Greek-Turkish border and a failure of the EU migration policy.
<http://www.migreurop.org/article2512.html?lang=fr>

- Amnesty International report on “the Human Cost of Fortress Europe”:
<http://www.amnesty.org/en/library/asset/EUR05/001/2014/en/48cb6136-cefc-4fd0-96cd-cd43b46eb5a8/eur050012014en.pdf>

Both reports call for Frontex to consider suspension of Poseidon operation and make numerous recommendations about the importance to conduct adequate human rights investigations.

5. PLANNED ACTIVITIES AND UPCOMING EVENTS

6. RECOMMENDATIONS

TO MB

- Analyze the possibility of regular sharing of the MSs monitoring reports of JRO with Frontex as it will result in better standards effectively applied in JRO in the future.
- Analyse the possible need to use of EU funds for supporting training for border guards on FR based on the Frontex Manual on Fundamental Rights for Border Guard to ensure fundamental rights awareness and understanding on the border guard daily practices, both nationally and within Frontex Joint Operations.