

**VIII FRONTEX FUNDAMENTAL RIGHTS OFFICER REPORT***To: Frontex Management Board and Frontex Consultative Forum on Fundamental Rights***18 August- 17 October 2014****Overview**

- Several serious incident reports on alleged violations of fundamental rights received.
- CF members participate in JO Vega Children and visit operations in Bulgaria.
- FRO keeps providing practical and user friendly tools to Frontex units.
- FRO revision and assessment of Joint Operations Final Evaluation Reports is undergoing.

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

On **22 September**, in Pserimos Island (Kalymnos), Hellenic Coast Guard HCG vessel tried to intercept a high speed boat with repeated usage of sound signals. The skipper refused to comply and tried to ram the HCG boat, resulting in the injury of a HCG officer. HCG then made use of warning shots in the air followed by use of firearms to shoot the boat engine, as the facilitator continued in his attempt to ram the HCG vessel. After a search on the boat, 12 undocumented persons were found inside the cabin, from which 2 were wounded by the gunshots. The **two injured persons** were immediately transferred by helicopter and airplane to Rhodes and Thessaloniki hospitals. Two facilitators of Turkish origin were arrested. The case is currently under investigation at the local Prosecutor's office.

On **24 September** a team composed of a Hungarian police officer and a Guest Officer dog handler performing night border patrolling, were pursuing a group of persons (approx. 15) suspected of having irregularly entered through the Serbian- Bulgarian border in the area of Szeged. During the pursuit, one of the persons, later identified as the possible facilitator of the group, engaged in a fight with the police officer, while the GO followed the other persons of the group. After a few seconds the police officer called out for help. The dog (well trained for protection & apprehension situations, according to the available reports) was wearing a muzzle which also fell when he got unleashed. The dog handler fell and **the dog attacked the person**, grabbing his upper right arm. The person then in turn attacked the police officer. When GO arrived to the scene, the host MS officer had already handcuffed the suspect. The GO gave the

command to the dog which immediately released the person. He was taken to the local hospital for a check-up and nobody got seriously injured. FRO has also discussed the training of dogs and dog handlers with Frontex Training Unit, which has provided a useful insight on its limitations. FRO is analysing all information collected by JOU and will soon provide final SIR on this matter.

On **26 September**, a group of 13 people (11 AFG - 2 SYR) were apprehended near Ormenio village by Greek Police and transported in BCU Orestiada. During the debriefing interview, one of them reported a **push back episode** occurred in Bulgaria. They had crossed the border and after walking for 2 hours the Bulgarian police stopped them and brought them back to the river, told them to cross it on foot and return to Greece. After the crossing, they were apprehended by Hellenic police. Orestiada Police is investigating the circumstances of the case as they are unclear.

On **26 September**, during a debriefing interview an Iraqi national in Elhovo, the person reported that after having illegally crossed the Greek-Turkish border, he was apprehended by BCU Soufli Officers. Later-on, he was joined with a large group of persons (up to 70) and, without any registration, they were all transferred by a minivan to the Ivailovgrad area at the Bulgarian - Greek border, where they were apprehended by the Bulgarian authorities. The migrant did not want to make an official report. The BG authorities are therefore not expected to provide additional information on the case.

On **5 October**, during a debriefing interview with an Afghani national in Orestiada at the Greek- Turkish border, the person reported that he was brought in a larger group to the Bulgarian side of the river. He reported that the Bulgarian Police kicked and beat them with their truncheons and stole their SIM cards, ordering them to go back. The day after, the group tried to get back to Bulgaria. Bulgarian Police again beat them and forced them over the border to Greece. He further reported that when already in Greece, the Bulgarian Police came and started to hit the migrants again. Later on, the Hellenic Police found and arrested them. The person was willing to make an official report and investigations are ongoing.

On **11 October**, during a debriefing interview performed in Fylakio with a Syrian national. He reported that on 2 October he was in a group of 17 people, a Turkish driver took them to a river at the border with Bulgaria. Suddenly the Bulgarian Police arrived and arrested them. BGP took them on foot to a certain place and told them to follow that way and go back to Turkey. The group walked in the direction indicated but they found themselves in Greece. They were thereafter arrested by Hellenic police. The case is under investigation.

On **15 October**, during a debriefing interview performed at Lyubimets Detention Center (Bulgaria) by SGO debriefing expert a person from Morocco claimed that sometime in June 2014, together with another two Moroccan nationals, he was twice returned from Greece to Turkey by the Hellenic Police. Five people arrived, wearing masks and speaking German and took away all their belongings. These people were speaking English with the policemen. Approx. 15 people travelled with a small truck close to the border to the river Evros. They were taken with a rubber boat to a small „island” on the Turkish side of the river, where they waited for other small group of persons and were then went back to Edirne (approx. five hours walk) with other four migrants. The day after they tried to cross the border again, jumped the fence and walked about 45 minutes, reaching the railway. After three hours walking, they were caught again by the Greek Police, who took them to the same place and a similar episode occurred as described above. The person was willing to file an official statement but later recalled it.

## **b) Other Operational projects**

During this reporting period, FRO team has been very engaged in supporting Air Border Sector in the preparations for the Vega Children Operation. A total of 15 experts from UNHCR, IOM, Caritas (CF members) and Terre des Hommes, were deployed for at least two weeks in the airports of Lisbon, Amsterdam, Bucharest, Madrid, Brussels, Porto and Geneva. On 16 September FRO provided a briefing to all participants, MS and organizations, that included an overview of the FR strategy and CoC for all participants in Frontex operations, the functions of the FRO and the CF, a basic overview of FR at stake at the border and main objectives and tasks of CF experts during deployment.

The participation of the organizations in this operation is mainly aiming at providing comments and suggestions so that the end result, the VEGA Children Handbook includes the highest realistic standards, tested in real operations, on guidelines to identify and refer children at risk at the EU airports. The Handbook is scheduled for publication in the first quarter of 2015 and will be replicated for sea and land operations. It is the first occasion that Frontex has experienced such a wide external participation, which can result in a model for further opportunities of future cooperation where operational officers and experts on fundamental rights issues meet and work in close coordination at EU level.

On 28 August FRO provided a briefing to SGOs and GO to be deployed in Focal Points Air Operations. The briefing is similar to the one explained above (also Air Border focused).

During the first week of September, FRO accompanied a delegation of the CF to visit the Poseidon Land and Attica Joint Operations in Bulgaria. The visit, organized jointly with JOU and the NFOPC in Bulgaria, offered a possibility to exchange with patrolling, screening and debriefing officers deployed in the JOs, as well as with national authorities both at the border and in Sofia, including a meeting with Deputy Minister of Interior. FRO considers that the visit of the CF will provide constructive input to further enhance FR compliance during joint operations from a strategic and procedural perspective. FRO regrets the obstacles faced in the organization of the CF visit to Greece that would have allowed the CF to further support the implementation of FR safeguards provided last year, based on the operational reality and needs assessment. This exercise represents an important support to FRO day-to-day activities as foreseen in the Frontex Regulation and in the Frontex Maritime Surveillance regulation. FRO looks forward to the dialogue between the MB and the CF and its results in the focus group meeting after the visit to Bulgaria.

In order to provide guidance to all joint operations, and to complement the short awareness video on FR in Frontex operations produced in July, FRO team has developed a 1-page note explaining “the role of border guards in access to asylum in Frontex operations” in accordance to the provision of the Asylum Procedures Directive (recast). The note compiles essential aspects (identification, information, and referral) to incorporate these important elements of the right to asylum in the daily activities of the Agency, and especially linked to the cooperation with EASO and UNHCR in the field. Furthermore, FRO team has also provided JOU a brief check list on FR safeguards included in the new Frontex Maritime Surveillance Regulation (656/2014), to facilitate inclusion of safeguards in Operational Plans after its entry into force on 17 July 2014.

FRO has continued supporting OPD in the drafting of the EUROSUR Handbook, specifically the chapter on fundamental rights and data protection, with the valuable input from the FRA in the drafting process. A new updated version, with more examples and concrete guidance, was jointly revised and submitted to OPD on 8 October for further submission to the EC.

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

FRO team has finalised a preliminary draft concept paper developing the presentation on the Frontex fundamental rights monitoring system presented to MB and CF in February 2013 to allow further internal discussions and with additional stakeholders when/if required.

After the amendments to the Standard Operating Procedure on Serious Incident Reports were adopted in July, FRO has been appointed coordinator of several cases (those reported above) and JOU has continued gathering information on the cases. Discussions are regular and ongoing to fine-tune the roles of the different Frontex units involved in the process to reach better efficiency levels.

FRO has initiated an exchange with Greek and Bulgarian authorities on key procedural aspects related to human rights investigations to reach a common understanding on the follow up procedures after allegations of violations of FR are received during Frontex operations. FRO requires additional information and exchange with the authorities at this stage in order to support and strengthen efforts to establish the Frontex monitoring system for compliance with fundamental rights.

#### **d) Evaluation Reports received during reporting period**

##### ***OPlans (JOs and PPs) 2014***

JO Triton (15 Oct)  
Amendment of OPlan JO Poseidon Sea 2014  
Amendment of OPlan JO Hermes 2014  
Amendment of OPlan JO Attica 2014  
VEGA Children 2014  
Flight Tracking (PP)  
Alexis II

##### ***FERs JOs/PPs***

Poseidon Sea 2013  
EPN Hermes 2013  
EPN Aeneas 2013

##### ***FERs JROs***

JRO to Albania & Georgia on 8/7  
JRO to Nigeria on 26/6  
JRO to Nigeria on 10/07  
JRO to FYROM & SRB on 08/07  
JRO to Pakistan on 17/06  
JRO to Kosovo on 25/08  
JRO Albania & Georgia on 8/7

## **2. CAPACITY BUILDING**

At a technical level, FRO and TRU have engaged in an exchange on how to better tackle training needs on FR within Frontex activities, with a priority focus on participants to JOs and other operational activities. A combined objective is how to streamline FR in all profile trainings currently ongoing or planned for next year. The topic of FR is presented and discussed in all trainings and there seems to be a need to provide a "FR minimum



common denominator” of basic training to all specialized profile trainings. The risk of focusing on “FR modules” within the trainings is that mainstreaming is not achieved. Discussions are ongoing and FRO believes that CF involvement in the discussion, and especially in the implementation, would be highly beneficial.

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

Frontex Human Resources Unit has successfully organized two sessions of Basic Fundamental Rights Training for Frontex staff during the third week of September. The trainers met with FRO to exchange on their impressions after 80 Frontex staff have been trained on the basic course this year and discuss additional improvements and future developments of the sessions. At this stage, approximately half the Agency’s staff has undergone the 2- day compulsory training session.

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 team is analyzing the compilation for initial internal discussion and will design a roadmap for finalization of the exercise by the end of 2015.

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

Supporting TRU, FRO met with EASO Training Unit on 1<sup>st</sup> September to further develop a joint curriculum for a common training for 1<sup>st</sup> reception and asylum officers in Greece that will be delivered on 15-16 October. The initiative is a revision of a prior initiative from last year in Fylakio that gathered first reception and border guards. The objective of the exercise, from the point of view of FRO, is to raise awareness on the Asylum Procedure Directive and explain that the asylum process is a continuum where several authorities are involved, from access -frequently in the scope of border guards- to final decision. The brief 1- page note on the role of border guards mentioned above was drafted to support this same spirit in agreement with Frontex senior management and EASO training colleagues.

Following up on the reported objective to also strengthen Frontex-EASO cooperation during operations, on 10-11 September there was a joint visit to BCP Terespol (Polish-Belorussian border) and the Polish Immigration and Border Guard authorities. The objective was to learn *in situ* about the referral mechanisms followed from identification to the asylum authorities in the Polish system. 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 organizing Joint Teams that will support efficient and sustainable referral procedures in MSs in line with the Asylum Procedures Directive. Relex IO- EU and FRO intern took part.

On 11 September Frontex was invited to participate in a closed doors session “*Closed Over Diritti: Irregular Migration in Italy and the EU: Are new criteria needed to manage and control?* “ The workshop was organized by the Open Society Foundations and Association Parsec in collaboration and within the framework of the Italian Presidency of the Council of Ministers in Rome. FRO attended and highlighted the Frontex role of supporting search and rescue operations and the difference with the actual coordination role, with the national authorities. The issue of strengthened cooperation with EASO and UNHCR in the Italian context to ensure access to asylum and registration was also

prominent, as well as the opportunities for third country cooperation to support the Italian presidency efforts from a border management perspective. The need to expand it to broader discussion on migration management was widely expressed by participants.

On 17 September, FRO participated in meeting with the Director of Amber Alert Initiative on children missing or at risk. The initiative is promoted from the Netherlands and involves 7 MSs and aims to support police work in detecting children at risks at MS airports and BCPs, in line with Frontex initiative in VEGA Children project. Further collaboration is under discussion.

Following up on the June participation in the ICMPD workshop on the guidelines for monitors for return flights in Budapest, FRO revised the resulting version to the proposed text and provided additional comments. On 1<sup>st</sup> October, FRO discussed the possible content of the Training Manual for Monitors of forced return flights with ICMPD and the trainer/consultant.

On 9 November FRO supported Return Sector and OPD in a meeting and exchange with representatives of the Inspectorate of prisons within MoJ from the Netherlands. The focus was monitoring of JROs, a function that the inspectorate took in January 2014. Several cooperation possibilities, including sharing of information, guidelines and tools, were discussed.

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

22-23 October: 5<sup>th</sup> CF Meeting

10-11 November: FRA Fundamental Rights Conference (FRC 2014) in Rome

26-27 November: MB Meeting

## **6. RECOMMENDATIONS**

FRO is prioritizing structural aspects of the monitoring system and engaging in discussions on how to improve the day to day flow of information within Frontex. The current FRO team staffing capacity -a trainee ending contract in December 2014 and an assistant shared as CF Secretariat- does not permit to engage in many detailed activities that are required to support the establishment of the system. Further discussions on staffing needs will follow.

FRO recommends CF members to re-engage more actively during 2015 in supporting FR aspects of Frontex training activities.

FRO encourages regular exchange between MB members and CF on bilateral basis to support her day to day implementation of conclusions and recommendations resulting from visits to operations and focus group discussion.