

HUMAN RIGHTS WATCH

1145 Avenue of the Americas, 34th Floor
New York, NY 10118-3299
Tel: 212-290-4700
Fax: 212-736-1300 ; 917-345-3452

Europe and Central Asia Division

John Williamson, Director
Michael Denber, Deputy Director
Suzanne Amin Ward, Deputy Director
Anika L. Szente Goldston, Advocacy Director
David Sevortian, Director, Moscow Office
Irina Lokshina, Deputy Director, Moscow Office
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John Sunderland, Senior Researcher
David Gall, Researcher
Igor Gorbunova, Researcher
Andreas Rittmann, Researcher
Alexandra Swerdlow, Researcher
Catherine Cosse, Research Assistant
Soo-riya Kim, Coordinator
Christine Lally, Senior Associate
Jana Pravidic, Senior Associate

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Médiateur européen

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Date d'arrivée



www.hrw.org

August 6, 2012

P. Nikiforos Diamandouros
European Ombudsman
1 avenue du Président Robert Schuman
CS 30403
F - 67001 Strasbourg Cedex
France

Subject: European Ombudsman's own-initiative inquiry into the implementation by Frontex of its fundamental rights obligations

Dear Mr Diamandouros:

Human Rights Watch welcomes your recent own-initiative inquiry concerning implementation by Frontex of its fundamental rights obligations.

Human Rights Watch is an independent organization dedicated to defending and protecting human rights, working in around 90 countries around the world.

We have been closely monitoring the human rights situation in Greece and, in particular, the treatment of migrants and asylum seekers over the past four years, including the Frontex operation in the border region of Evros.

In light of your on-going inquiry, and your request for observations from civil society organizations, please find enclosed Human Rights Watch's Report on Frontex, *The EU's Dirty Hands: Frontex Involvement in Ill-Treatment of Migrant Detainees in Greece*. This report documents how under Frontex coordination, EU member state border guards participating in Frontex patrols consistently, repeatedly, and knowingly exposed migrants to inhuman and degrading conditions of detention in Greek-run detention facilities during the period of the "RABIT 2010" (Rapid Border Intervention Team) deployment in Greece.

Our research findings fundamentally call into question the assertion in the Frontex reply to you dated May 17, 2012, that "[v]iolations of fundamental rights cannot be predicted before they actually happen." Our research indicates that violations of human rights occurred in the context of the Frontex RABIT operation. The possibility of such abuses occurring again in Greece or during other Frontex operations is clearly foreseeable.

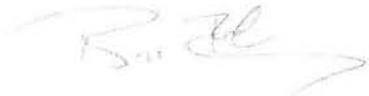
In making your inquiry, we also urge you to be particularly vigilant in assessing Frontex's contention in Annex 1, page 2 of the agency's response to your specific questions that "Since Frontex' task is only to coordinate the

cooperation of the EU member States ... activities that can affect on a person's rights can only be performed by the competent authorities from the Member States hosting or participating in the operation." By this measure, Frontex could never be held accountable for any involvement in human rights violations.

Our report devotes considerable attention to what we call "The Fragmentation of EU Responsibilities," the title of one of our report chapters. We reject the notion that a coordination function absolves Frontex of responsibility. We urge you to read the chapter of our report called "Frontex's Responsibility for Exposing Migrants to Inhuman and Degrading Treatment" for our analysis of Frontex responsibility, even when Frontex itself is not operationally responsible for running detention centers, for exposing migrants to serious and persistent violations of fundamental rights.

We hope you will find our analysis useful and would be happy to discuss our findings with you in more detail.

Sincerely,

A handwritten signature in blue ink, appearing to read "Bill Frelick", with a long horizontal line extending to the right.

Bill Frelick
Director
Refugee Program
Human Rights Watch



GREECE

The EU's Dirty Hands

Frontex Involvement in Ill-Treatment of Migrant Detainees
in Greece

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The EU's Dirty Hands

Frontex Involvement in Ill-Treatment of Migrant Detainees in Greece

In November 2010, the European Union's (EU) agency for the management of operational cooperation at external borders, Frontex, began providing Greece with manpower and material support to patrol its borders along the Evros River with Turkey. This report assesses Frontex's involvement in, and responsibility for, exposing migrants detained by border patrols to inhuman and degrading conditions of detention in Greece's overcrowded migrant detention centers in northeastern Greece.

Frontex deployed 175 border guards, chosen from a pool provided by participating European states as part of a rapid border intervention team (RABIT). During the four months examined in this report, RABIT patrols regularly apprehended migrants and took them, sometimes in buses provided by Frontex, to the detention centers. RABIT has been replaced by a permanent Frontex presence.

During the RABIT deployment, the European Court of Human Rights (ECtHR) issued a judgment, *M.S.S. v. Belgium and Greece*, which found that conditions in Greek migrant detention centers were inhuman and degrading and that Belgium violated its human rights obligations by knowingly exposing an Afghan asylum seeker to inhuman and degrading treatment when it transferred him back to Greece.

In the course of the RABIT mission in Greece, Frontex also facilitated the transfer of migrants to centers of detention within Greece where Human Rights Watch documented the same inhuman and degrading conditions. Human Rights Watch contends that Frontex is similarly responsible for having knowingly exposed migrants to treatment which is absolutely prohibited under human rights law.

This report argues that Frontex should immediately make its engagement in border enforcement operations in Greece contingent on the placement of apprehended migrants in facilities with decent conditions either by transferring them to other areas of Greece where detention standards meet human rights requirements or by making detention spaces available in other places in the EU where conditions meet international and EU standards.

Since November 2010, Frontex, the EU's border agency, has deployed "guest officers" seconded from other European states, to assist Greece in patrolling its land borders. Migrants detained by patrols are transferred to detention centers in Greece where the conditions of detention are so poor that they are deemed inhuman and degrading.

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