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EU border control policies negatively affect human rights

Strasbourg, 6/11/2013 – “The EU externalisation of border control policies has a deleterious effect on human rights, in particular the right to leave a country, which is a prerequisite to the enjoyment of other rights – most importantly, the right to seek asylum”, said today Nils Muižnieks, Council of Europe Commissioner for Human Rights, while releasing a [research paper](#) on the right to leave a country.

“The right to leave a country is enshrined in most major human rights instruments and is intended to ensure that people can move freely, without unjustified obstacles. However, today’s EU approach to border controls and immigration raises serious concerns as it leads to changes in the legislation and practice of third countries which may result in human rights violations, in particular regarding the right to leave a country, the prohibition on collective expulsion and the right to seek and enjoy asylum.”

Measures which raise concerns as to their compliance with human rights include ethnic profiling at border crossing points, sanctions on carriers which do not carry out police work, confiscation of travel documents, readmission agreements and the highly problematic and unlawful practice of so-called push-backs, both at sea and on land.

“The result of such measures is particularly evident in the Western Balkans, where countries are pressured to reduce the number of their citizens applying for asylum in the EU under the penalty of seeing all their nationals subject to mandatory visa requirements. Not surprisingly, the authorities of some of these states are restricting the departure of individuals whom they consider at risk of applying for asylum, the vast majority of whom are Roma.”

Between 2009 and 2012 only in “the former Yugoslav Republic of Macedonia” about 7 000 citizens of this state were not allowed to leave the country and passports have been regularly confiscated from those returned to the country by EU member states’ authorities. In December 2012 a new offence was introduced into the Serbian criminal code making it harder for Serbians to seek asylum abroad.

An additional concern highlighted in the paper is that the EU funds detention centres for third-country nationals and encourages its neighbouring states to set up elaborate surveillance systems to make sure that their own citizens are staying put.

Finally, EU member states’ border guards carry out operations at sea which are intended to keep people away from EU borders, as well as at land borders between third states for the purpose of making sure that third-country nationals never get to EU borders hundreds of kilometers away. “Notwithstanding the EU’s commitment to human rights and fundamental freedoms, the compatibility of its border control activities with international and European human rights law is questionable. It is time that EU border control policies become more respectful of human rights standards, as well as more transparent and accountable”.

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The Commissioner for Human Rights is an independent, non-judicial institution within the Council of Europe,

mandated to promote awareness of, and respect for, human rights in the 47 member states of the Organisation. Elected by the Parliamentary Assembly of the Council of Europe, the present Commissioner, Mr Nils Muižnieks, took up his function on 1 April 2012