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Jailing migrants is not the solution to Bulgaria's migration challenges -- Zeid

GENEVA (11 August 2016) – Criminalising migrants for entering and leaving Bulgaria irregularly “places many of them in an invidious Catch-22 situation” and raises serious concerns about the State’s compliance with international law, UN High Commissioner for Human Rights, Zeid Ra’ad Al Hussein said Thursday, after the second of two visits to Bulgaria by his staff in the past eight months revealed a number of disturbing policies and practices relating to migrants and refugees.

Zeid noted some positive developments since the first visit by UN Human Rights Office staff last November, notably that the time limit for the registration of an asylum claim has been fixed at six days. This has occurred since the entry into force in December 2015 of legal provisions bringing Bulgaria’s law in line with the European Union’s Asylum Procedures Directive.

The UN human rights chief also said that his team had been impressed by the “many excellent, engaged and professional staff” working in various Government institutions, including in Ministry of Interior detention facilities, as well as Sofia Central Prison, during their recent visit at the end of July. Zeid also praised the fact that the country’s nascent guardianship system was recently extended to include migrant children. He noted that this was one of very few measures relating to migrants that related to their welfare and was not focused solely on security.

“But one of the most serious problems is that virtually all people entering Bulgaria in an irregular manner are detained as a matter of course,” Zeid said. “Even worse, they may also be prosecuted and jailed - for a year or even more - if they try to leave the country. The act of leaving the country is criminalized in spite of the right of everyone, under international law, to leave a country, including their own.”

“This means that people who do not qualify under the strict definition of a refugee, but still have legitimate reasons for being unable to return to their home country, have hardly any avenues open to them. This is clearly inhumane and unacceptable,” he said.

The High Commissioner said he had particular concerns about the reported disregard for due process and fair trial guarantees on a number of fronts in the Svilengrad Regional Court, where many of the criminal prosecutions for irregular border crossings take place. “There are migrants who do not have access to adequate legal representation or translation services, to the extent that they are sometimes even unaware that they have been prosecuted – this is clearly contrary to fair trial and due process safeguards,” Zeid noted.

Other concerns include “pushbacks” into neighbouring countries, limited possibilities for people to integrate legally in Bulgaria, and persistent allegations of physical abuse and theft by law enforcement officials at borders. “My team was informed that attacks and abuses against migrants and refugees are rarely, if ever, punished,” Zeid said, “especially if they are committed by police, border guards or other Government officials.” He noted, as an example, the recent halting by a Bulgarian court of all criminal proceedings related to the October 2015 killing of an unarmed Afghan man who was shot by border guards.

In addition, the UN human rights team found that conditions in some migrant detention facilities were degrading, with the extremely dilapidated and insanitary Elhovo transit centre in eastern Bulgaria of particular concern.

“There are worrying signs that the detention regime will become even more expansive,” Zeid said, noting that new legislation that came into force in January permits the State Agency for Refugees to develop and administer places of detention for asylum-seekers.

The High Commissioner expressed particular regret that Bulgarian public officials, including the Prime Minister, and elements of the media have made frequent aggressively anti-migrant statements. He said it was “particularly disturbing to see important and influential public figures expressing support for illegal armed vigilante groups who have been brazenly hunting down migrants along parts of the border between Bulgaria and Turkey.”

“Rising xenophobia, Islamophobia and racism are among the most worrying threats to human rights in Europe today,” Zeid said. “The Bulgarian Government is not doing enough to challenge these alarming trends – indeed in the view of some, it is actually encouraging intolerance. Leadership is needed to create an environment conducive to respect for human rights, as well as to end violations and abuses when they occur.”

ENDS

Teams from the UN human rights office have also recently made visits to study the human rights situation of migrants in Greece and Italy.

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