From: ██████, ██████ [mailto:████████████████████]
Sent: Monday 6 May 2019 21:40
To: complaints <complaints@frontex.europa.eu>; ████████████
<█████████████████████████>
Cc: █████████████ <████████████████>
Subject: URGENT - return of 3 families with ECtHR interim measures by JRO to ███████ on 7 May 2019

Dear Madam,

Hereby I would like to call your attention to the planned forced return of three families to ███████ from Hungary via a Frontex operated flight scheduled tomorrow that could well be **in breach of the EU asylum *acquis*, consequently Regulation 2016/1624 of the European Parliament and of the Council, as well as the Code of Conduct for Joint Return Operations Coordinated by Frontex.** The reasons are as follows:

1. All three families (see personal details at the end of this letter) applied for asylum in Hungary after Hungary introduced a new ground for finding an asylum application inadmissible. The European Commission launched an infringement procedure against Hungary because of the introduction of this new inadmissibility ground and stated that "**the introduction of a new non-admissibility ground for asylum applications, not provided for by EU law, is a violation of the EU Asylum Procedures Directive. In addition, while EU law provides for the possibility to introduce non-admissibility grounds under the safe third country and the first country of asylum concepts, the new law and the constitutional amendment on asylum curtail the right to asylum in a way which is incompatible with the Asylum Qualifications Directive and the EU Charter of Fundamental Rights.**" (19 July 2018, http://europa.eu/rapid/press-release_IP-18-4522_en.htm)

2. All three families were issued an inadmissibility decision based on this new ground: on the mere fact that they passed through Serbia prior to their arrival to the Hungarian transit zones. **The merits of their asylum application was never examined.**

3. The Hungarian Immigration and Asylum Office consequently ordered their **deportation to Serbia.**

4. **As Serbia refused to take back the applicants from Hungary, the Immigration and Asylum Office simply changed the destination of the deportation to their country of origin,** ███████ There was never an individualised assessment of the risk of *refoulement* in case of return to the country of origin as there was never an examination of the alleged reasons for fleeing the country of origin on the merits in the first place. **Carrying out such deportations would be in breach of recitals 36, 46, 49, and Articles 28 and 34 of Regulation 2016/1624 clearly establishing the absolute necessity for the respect of the principle of *non-refoulement* by Frontex.**

5. The families were informed this afternoon, 6 May 2019 that their deportation will take place tomorrow by a Frontex-operated flight (see attachment 1-3).

6. **There are pending requests for interim measures at the European Court of Human Rights to stop the deportation of each individual.**

7. As all adult members of the families, except for a pregnant woman, were deprived of food in the transit zone after having been served with an inadmissibility decision, the European Court of Human Rights already issued interim measures in their cases, ordering the Hungarian authorities to provide food while detained in the transit zones at the Hungarian-Serbian border. **Hence the families to be deported tomorrow**

already have prioritised pending cases against Hungary at the European Court of Human Rights.

8. Several members of the families **have very serious medical conditions,** including for example a child with severe heart problems who was recently operated on in Hungary; a mother with high-risk pregnancy; another child requiring continuous medical treatment for severe skin disease affecting his entire body. **All these conditions raise a serious risk of breach of Article 7 of the Code of Conduct for Joint Operations Coordinated by Frontex.**

Conclusively, the Hungarian immigration authority is planning to enforce the deportation of three families to ███████ **without ever having examined their asylum application on their merits, or without ever having conducted an individualised assessment of a risk of** *refoulement***.**

Therefore I respectfully request <u>**the immediate intervention of the Human Rights Office of Frontex to halt the deportation of these three families to**</u> ███████

Personal details of the affected individuals:

- ██ ██ (████ born: ████████, ████████, ████████)
- ██ ██ (██, born: ████████, ████████, █████)
- ██ ████ (██, born: ████, ██, █████)
- ██ ██ (███ born: ██ ████████, █████)
- ██ ██ (███, born: ███ ████████, █████)

- ██ ██ (████ born: ████, ██████, █████),
- ██ ██ (██, born: ████, █████████)
- ██ ████ █ (██, born: ████, ██, █████)
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- ██ ██ ██ (██ born: █████, ██, █████)
- ██ ██ (███ born: █████, ██, █████)

We are of course able to share any further evidence or information deemed necessary by Frontex in order to assess the unlawfulness of the deportation of the families.

Sincerely yours,

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mobile: ███████

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