



**Border Violence
Monitoring Network**

LIBE Committee Hearing

The Cooperation Framework and Pilots projects in Bulgaria and Romania

8 April 2024, 17:00h

Brussels

Remarks by Desislava Todorova, Center for Legal Aid, on behalf of the Border Violence Monitoring Network

I am here today on behalf of Border Violence Monitoring Network, a network monitoring human rights violations at the European borders. I am a lawyer at the Bulgarian NGO Center for Legal Aid Voice in Bulgaria, which is a member of the Network from Bulgaria's side. As a NGO based in Sofia, for 15 years, we provide on the ground legal aid to asylum seekers and migrants.

As the present Cooperation Framework builds on the implementation of the Pilot projects, I'd like to share some practical observations, how we saw on the ground the execution of the Pilot project with Bulgaria:

From a civil society perspective, the Pilot project took place in Bulgaria behind closed doors. There was no clear reporting, no broad and diverse discussions and consultations, and no space for the civil society.

As it was said, the Pilot project in Bulgaria was initially set up for six months between March and September last year.

In November 2023, we requested official data on returns for third country nationals, placed at the Bulgarian Pastrogor transit center. This is the center where Bulgaria's Pilot project was tested. We asked the Ministry of Interior how many return decisions were issued and enforced to third country nationals, having arrived in Pastrogor. The Ministry responded, I quote: "*We don't have and we don't collect concrete data on returns of third country citizens, who arrived at the transit center*" (end of quote).

The first statistics linked to the Pilot Project then popped up in late December. The Bulgarian Refugee Agency published in its December report that 1 582 asylum claims of applicants from

the Pastrogor transit center were processed under the Pilot project. According to that report, I quote: *"in more than 90% of the cases, the foreign citizens left the Pastrogor center and did not come back. That's why they could not be transferred to the migration units for their effective return. Given the achieved results, the project with the Commission will continue in 2024"* (end of quote). From the same report, we also learn that a working group between the Bulgarian authorities and the European Commission drafted recommendations for legislative amendments.

Indeed, in January this year, nearly 5 months after the project rollout, the Refugee Agency proposed legislative changes. Referring to the Pilot project, the proposals introduce new preliminary checks for admissibility of every single asylum claim. This is basically a further step towards complicating the access to asylum procedure. The proposed changes also enhance accelerated procedures and the role of so-called third safe countries. Adoption of the amendments is ongoing. But the whole process reveals an interesting pattern: First, you kick-start and implement a project, and, then, as a next step, you create its legal basis letting the implementation practices get a legally binding form.

As I said, the Pilot project was tested in the Pastrogor transit center. Pastrogor is a small village close to the Bulgarian - Turkish border. Locations for carrying out procedures should meet the legal standard of ensuring genuine and effective access to entry and asylum. But testing projects in places like Pastrogor rather reflects the growing trend in shifting responsibility, outsourcing migration to the external borders, making migration more invisible. In Pastrogor, there is practically poor access to legal aid and social services, no activities for building civil society capacities. At the same time, asylum seekers, facing accelerated procedures, need counsel and legal help even more because if they want to appeal their asylum rejections or return decisions, they have to do it very, very quickly. It remains unclear if and how the Pilot project ensured effective access to legal aid for refugees and migrants.

It also remains unclear what kind of independent monitoring was foreseen during the project implementation. Was there any independent authority monitoring and documenting if basic human rights of refugees are respected? Were there any concrete observations, roadmaps, recommendations or any sorts of concerns about human rights violations? This question becomes important especially when you are aware of the routine practices of pushbacks. It becomes even more important in case you are serious about investigating pushbacks. It remains unclear if and how the pilot project and the present Cooperation Framework simply address the issue of pushbacks.

I am glad that Mr. Zlatanov could make it today and correct me in case I've got the statistics wrong. But according to the reports of the Bulgarian border police, during the last year, the Bulgarian border officials "deterred around 185 000 attempts to illegally entry the country". According to these reports, in around 80%-90% of the cases migrants are deterred, apprehended directly at the border. If so, then, it basically means that all those people, deterred at the border, did not have the slightest possibility to apply for asylum. And who can

then confirm and make it sure that this kind of deterrence does not represent collective expulsions?

On the one hand, the figures of the Bulgarian border police correspond to the goal explicitly set in the Pilot project and the Cooperation Framework towards preventing irregular arrivals. But on the other hand, you have this “strange bird” of international law and human rights saying that preventing people from entering to your territory is basically against the fundamental legal principles of non-refoulement, ensuring access to asylum procedure, and not criminalizing refugees for crossing the border irregularly. Let me also remind that pushbacks are not just preventing someone from crossing your borders. Pushbacks involve humiliating practices by beating people, stripping, even women and children, robbing their personal belongings, using the police dogs to attack them. Pushbacks dehumanize people. Numerous investigative and human rights reports reveal severe human rights violations, especially when it comes down to the Bulgarian-Turkish border. However, push backs are like “the elephant in the room” as a problem that is very visible but which everybody pretends not to see and this overlooking also applies to the responsible investigative authorities. So far, there has been no effective investigation about pushbacks in Bulgaria. But, as we discuss today the Cooperation Framework, we cannot speak about good practices without addressing human rights violations in an adequate manner.