

**UNLAWFUL  
INTERVENTIONS BY  
FRONTEX**



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### Unlawful Interventions by FRONTEX

Recently, the news that the European Border and Coast Guard Agency (FRONTEX) has launched an investigation into pushing back refugees from reaching the territorial waters of Greece were reflected in the press. In a written statement about the situation, Frontex Executive Director Fabrice Leggeri stated that the allegations made in some media organs regarding the activities at the Greek foreign borders had been investigated.

Some non-governmental organizations described this investigation as just for show and stated that there would not be any conclusion against Greece in the investigation. As a matter of fact, although the investigation had just begun, Frontex Executive Director Fabrice Leggeri stated in the aforementioned statement that they had not have concrete evidence to prove the accusations made against Greece.

Therewithal, the news about Frontex, which was previously reflected in the press, also supports the view that the investigation initiated by Frontex is just for show. For instance, in the video footage taken by Turkish authorities on June 8, 2020 it is seen that a boat with refugees in offshore waters of Çanakkale/Ayvaciç reached the Greek coastal waters. Frontex, in the region, kept refugees from passing instead of saving them. After a while the Greek coast guard staffs came to the scene and dismantled the fuel tank of the boat, which was carrying the refugees, then pushed the boat back towards the Turkish territorial waters. It appears that Frontex was content with just observing all these events.

What kind of powers Frontex has in maritime operations is regulated by Regulation No. 656/2014 of the European Parliament and of the Council. Accordingly, it is compulsory that in the operations carried out by Frontex, it must act in accordance with the European Union law, The Charter of Fundamental Rights of the European Union and international law. Also, the measures to be taken should be proportionate with the purpose and non-discriminatory, **including the principle of non-refoulement**; and with these measures, they have to respect human dignity, fundamental rights, the rights of refugees and asylum seekers.

Furthermore, it is stated in article 6 and the following articles of the aforesaid regulation that the relevant states may authorize units involved in the operation, such as Frontex, in various ways against vessels and boats suspected of escaping border control in territorial waters or involved in smuggling asylum seekers. **In this context, it is known that some of the powers that Frontex can use are to check whether the refugees in the boat in question, need urgent medical assistance and to take these refugees to the coastal member state in accordance with humanitarian rules.** Nevertheless, as in the example mentioned above on June 8, 2020, it is seen that Frontex



commonly resorted to "directing the ship to another direction or to a third country, which means pushing back".

Considering the use of vessels and boats that are generally stateless, non-seaworthy and not suitable for asylum-seeking transport, it is seen that Frontex' approach, with the consent of the relevant state, contradicts international law regulations and European Union law in many aspects. Namely:

- As each state has an obligation to rescue due to the use of vessels and boats that are not expedient for the sea; directing the vessels and boats in another direction by pushing them back constitutes a violation of the United Nations Convention on the Law of the Sea (UNCLOS), the International Convention on Maritime Search and Rescue (SAR) and International Convention for the Safety of Life at Sea (SOLAS), in which the liability to rescue is regulated.
- The back pushes in question do not comply with the European Convention on Human Rights and the Charter of Fundamental Rights of the European Union as they increase the vital risk of refugees on vessels and boats.
- As refugees in vessels and boats are not given the opportunity to apply for asylum, the pushings in question are contrary to the Convention Relating to the Status of Refugees and the European Convention on Human Rights (ECHR).

Although it is said that the purpose of Frontex maritime operations is to minimize life losses in the sea, directing the boats to another direction or a third country, i.e. pushing them back, does not serve this purpose. It is far from doubt that the ultimate goal here is to prevent the flow of refugees by keeping the borders closed to third country citizens as much as possible. Also, this situation constitutes a violation of both international law and European Union law.

For these reasons, Frontex, whose asserted main purpose is to prevent losses at sea, must serve it and act in accordance with both international law and European Union law. Thus, the investigation embarked by Frontex against Greece needs to be conducted impartially.

Respectfully announced to the public.

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