Subject: Activities of the European Border and Coast Guard Agency in Greece

Dear Mr Leggeri,

I am writing to you on behalf of the LIBE Committee and Schengen Scrutiny Group regarding the latest investigation by a number of media organisations published on 23 October 2020 on the activities of the Agency in Greece.

While appreciating the support provided by Frontex to Greece at its external borders in the spirit of EU solidarity, the Members of the Committee are deeply concerned about the allegations being made, as well as the wider questions of accountability they raise anew.

We welcome your letter from 27 October 2020 providing us with some further explanations and take note of your statement that so far, no documents or other materials have been found to substantiate any accusations of violations of the law or the Frontex Code of Conduct by deployed officers.

As representatives of the European Parliament to whom the Agency according to Article 6 of its legal basis is accountable, we consider, however, the explanations and statements provided so far as insufficient and request therefore your replies to the following questions:

When did you decide to launch the internal inquiry you refer to in your letter of 27 October? Who is conducting this inquiry? Is the Fundamental Rights Officer involved? By when will the internal inquiry be terminated? Please share the full results with us once the inquiry is terminated.

Can Frontex confirm that the assets mentioned in the investigation as being involved in the incidents on 8 June 2020 and 15 August 2020 were part of an operation/intervention

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coordinated by the Agency? If yes, have you identified the exact date and time of these incident(s) and the assets involved?

Does the Agency accept that Frontex assets were in range of the alleged “proximity incidents” on 28-29 April, 4 June, 5 June and 19 August? Has the Agency received reports/ ship logs/ flight and/or aerial surveillance reports / serious incidents reports on the duties performed by the involved assets at the time of all the different incidents referred to? If not, why is such information not available? If yes, please transmit these reports to us.

Can you definitely exclude that pushbacks were undertaken or observed by Frontex staff and/or staff participating in an operation or intervention in Greece?

In your letter you also pointed out that at this point of time, the still ongoing inquiry in the Agency has not identified any other suspicious cases than those already reported by you to Greek authorities. Nevertheless, following the publication of the investigation, in a posting on social media2 Frontex stated that you have been in contact with the Greek authorities regarding some incidents at sea in recent months. Can you provide us with detailed information about these contacts (when, where and what was discussed)?

Since this journalists’ investigation also revealed an involvement of Romanian vessels and a Portuguese aircraft, have you been in contact in relation to these incidents with authorities from those or other Member States (when, where and what was discussed)?

Against the backdrop of your duties under Article 46 of the EBCR Regulation, what is your own assessment of the actions performed / incidents as published in the journalists’ investigation? Besides information from the host Member State, what information do you assess in order to fulfil your duties under this Article?

What procedures does Frontex follow when it becomes aware, either by having an operation/intervention in the vicinity, or by being made aware through media reporting, of allegations such as those described in the report published by Bellingcat, Lighthouse Reports, Der Spiegel, Report Mainz (ARD) and TV Asahi? Do you consider that the Agency requires additional powers to investigate incidents in case of joint operations or interventions?

What further serious incidents and reports regarding the operation in Greece has the Agency received since the information sent to us by your letter of 4 May this year?

As the matter of allegations concerning pushbacks and infringements of fundamental rights and the right to asylum in Greece with a direct involvement of the Agency is extremely sensitive for us, and the public, we expect your detailed replies within 15 calendar days in accordance with Article 106(2) of the EBCG Regulation. We will be inviting you to an upcoming LIBE meeting to discuss your replies.

Please be also informed that I intend also to address a letter to the Chair of the Management Board requesting that an expert of the European Parliament be invited to the meeting of the Management Board in accordance with Article 104(7) of the EBCG Regulation when the Management Board will discuss the incidents referred to above.

Finally, I would like to reiterate the request of the LIBE Committee that Frontex regularly briefs Members about the ongoing operations so as to enable us to exercise our scrutiny obligations. In your letter from 14 July 2020, you described a general practice for law enforcement authorities to refrain from disclosing sensitive operational information in order not to undermine the operational objectives. Nevertheless, some of the Agency’s operational decisions and actions require

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2 https://twitter.com/Frontex/status/1319702229230768133
justification and further explanation. Therefore, while understanding your concerns, the Members consider that regular proper briefings in camera about ongoing operations are needed.

I am thanking you in advance and am looking forward to our further cooperation.

Yours sincerely,

Juan Fernando López Aguilar

Cc: Ylva Johansson, Home Affairs’ Commissioner