



*Hellenic Coast Guard
Commandant*

October 14, 2020

*Mr. Fabrice Leggeri,
Executive Director of Frontex -
European Border and Coast Guard Agency*

Ref: Your letter ORD/FDU/TUHO/3115/06 August 2020

Dear Executive Director,

1. In response to your letter in reference about the incident that took place on the 27th of July 2020 at the sea area of Chios, I would like to share with you the followings:

2. The ongoing situation at the eastern Aegean must be assessed against the prevailing background and in particular:

*(a) The organized and massive character of the migration flows at the eastern Aegean. As known, the Turkish Authorities decided to stop preventing migrants from moving onwards to the EU territory and this was officially announced by Turkish officials. In addition, the Turkish Coast Guard (TCG) not only do not control migrants' boats inside their area of responsibility but in a large number of cases they are apparently escorting them, thus facilitating the migrants' movement towards the Greek coasts. This orchestrated movement of migrants and their instrumentalisation escalated the phenomenon to a hybrid nature threat and pressure to the external EU borders, directly affecting the EU internal stability. Moreover, it elevated the situation to an offence against Greece's national security, which needed to be addressed appropriately. In this context, the violation of multiple provisions (e.g. art.2, 3a, 6.2c, 11) of the Protocol **against the Smuggling of Migrants** by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organised Crime of 2000 (Council Decision 2006/616 and relevant EU Declaration annexed thereto) and the ensuing international responsibility of Turkey should also be considered when making the legal assessment of any action or response at the EU borders under EU law.*

(6) The Covid 19 pandemic. The imperative need to contain the spread of the pandemic magnified the importance of preventing illegal border crossings as a matter of safeguarding public health for the benefit of the local societies, the European border guards and the migrants accommodated at the Reception and Identification Centres as well. Indeed, an alarming increase of Covid 19 positive cases among the migrants has been recorded during the latest period. Under EU law, Member States at the external borders of the Union are obliged to act in the interest of all Member States so as to prevent and address threats to their public health (sixth recital of Regulation 2016/399 on the Schengen Borders Code).

3. With regard to the event in question, the TCG took responsibility for it within Turkish territorial waters, in compliance with Turkey's commitments under the EU-Turkey Statement. The Hellenic Coast Guard (HCG) responded to the incident in accordance with international standards preserving the physical integrity of the migrants, and ensuring, in cooperation with the TCG, their disembarkation at a place of safety.

4. To this point I would like to bring to your attention the following issues:

(a) The Serious Incident Reporter (SIR) invokes a conversation in which he did not participate, distorting the real facts. In particular, the ICC Coordinator requested the Danish National Official appointed at the Piraeus ICC to additionally include the target initial detection coordinates in the mission report. Such a request was intended to illustrate the complete information, including the route followed by the migrants' boat and not a snapshot of it. A follow up on the matter was accordingly provided to the Danish side to ensure the elimination of any possible misunderstanding, as by default and by principle the ICC staff do not recommend the substantial modification of the produced reports but only their later enhancement in line with the provisions of the Operational Plan. In any case, the aforementioned reports have already been disseminated to all parties prior to their examination by the ICC.

(b) The Serious Incident Report (SIR) created, is based on the hypothesis by the Danish Detachment Commander about the allegedly unprocessed return of a group of migrants, though this is not documented in the mission report of the Danish Helicopter and cannot be proven by its content since the asset was only partially present during the incident and departed prior to its final outcome.

5. Moreover, allow me to highlight the importance of the Joint Coordination Board (JCB) with the trilateral participation of the representatives of the Host Member State, the participating Member States and Frontex as the responsible forum for the coordination of JO Poseidon. The practical importance and the utmost added value of this Forum lays on the fostering of cooperation between the parties involved and the constructive discussion among them, including the resolution of any issue of concern, whenever needed. However, in the particular incident the role of the JCB was disregarded by the SIR Reporter who unilaterally

proceeded with his actions based on a personal assumption and without any prior feedback by the Hellenic Authorities, which should have been requested.

6. At this point, I would like to emphasize the core mission set by the Op. Plan which consists in the early detection of migrants' boats at the area close to the border. The patrolling close to the borderline and the use of high standard surveillance equipment is a prerequisite for the prevention of unauthorized border crossings in accordance with the Schengen Border Code and aiming at better safeguarding migrants' lives. Having in mind the circumstances of the particular event of 27th of July 2020 and the fact that this was the only case of detection by the DK HEL during its overall deployment at Chios area, this responsibility needs to be further highlighted to the participants of the Joint Operation in order to avoid jeopardizing of the efficiency of the European implemented actions and deviating from their core objective to protect the EU external borders.

7. Finally, I would like to reassure you on the respect of the Hellenic Coast Guard of the rights of those in need of international protection as well as on the adherence of its personnel to the humanitarian values, as this has undisputedly been proven during the last years by the rescue of thousands of human lives at sea.

Yours Sincerely,

*Vice Admiral (H.C.G.) Theodore KLIARIS
Commandant of the Hellenic Coast Guard*