

To the kind attention of:

Mr Fabrice Leggeri

Executive Director European Agency for the Management of Operational Cooperation at the External Borders (Frontex)

c.c.:

Mrs Emily O'Reilly,

EU Ombudsman

Nils Muižnieks

Council of Europe Commissioner for Human Rights

Brussels, 23 September 2016

Dear Mr Fabrice Leggeri,

We are contacting you with reference to a number of incidents reports documenting the recurrent use of weapons by coast guards within Frontex operations to stop boats driven by suspected smugglers, injuring or killing refugees. The documents, published on August 22nd 2016 by the online publication *The Intercept* ([“Shoot First: Coast Guard Fired at Migrant Boats, European Border Agency Documents Show”](#)), show multiple cases of firearms use against boats carrying refugees by the Greek and FRONTEX’s operators leading to severely endangering refugees in the process. The reports cover a 20-month period from May 2014 to December 2015. Each case of firearms use — even if it resulted in someone being wounded — was described “as part of the 'standard rules of engagement' for stopping boats at sea”.

According to available information, the frequency of incidents has decreased since the beginning of 2015, following the political changes in Greece and despite the dramatic increase of refugee flows to the Greek Islands in 2015. However, the unredacted documents [inadvertently released by Frontex in full](#) and published by *The Intercept* carry the comment in the sections dealing with the use of firearms: “The non-disclosed text [...] refers to sensitive operational information describing the encounter between law enforcement officers and a facilitator, and in particular the method used by the formers to stop the latter and prevent criminal activities”. Indeed, the use of firearms to immobilize boats is inherently dangerous even when not aiming directly at people. Shooting the engine, a procedure frequently used according to FRONTEX’s incident reports , can also cause severe injuries or death as a great number of refugees are standing next to the engine and can either be shot by mistake or bullets ricochet on the engine, or because of the possibility for the engine to explode when shot at.

According to *The Intercept*: “Frontex, through its press office, acknowledges that these shootings have, in multiple cases, caused the injury and death of refugees aboard smuggler boats, though it would not provide information on the number of such cases. Nor would it clarify who on board of a Frontex ship makes the decision to shoot. The agency maintains that the purpose of shooting is not to prevent boats from crossing the sea border, but to stop the smugglers. The effect, however, appears to be the same”. “According to the rules of engagement for Greek coast guard officers, as well as Frontex officers working in Greece, shooting to disable a vehicle is legal if it is done to prevent someone from illegally entering or exiting a country, if they have a firearm”. But in the circumstances mentioned above, it has not been proved that the driver of the refugee boat was armed, and threatened the coast guard.

The article describes one particular incident, which happened in Chios in 2014, when several refugees were wounded and a minor died after being shot.

We highly condemn the use of firearms in the presence and against individuals trying to reach safety in Europe. We believe shooting at boats to immobilize them, even with the aim of stopping a trafficker, is extremely dangerous and clearly not proportionate with the aim pursued.

Given the recent development of the FRONTEX agency into the European Border and Coast Guard (EBCG), we would like to know:

- If and in what capacity the procedure of using weapons to immobilize vehicles with refugees on board will continue, both by Frontex and by Member States’ coast guards, and how is it going to be guaranteed that all relevant provisions for use of weapons are respected?
- Who takes the decision and/or the responsibility on the Frontex ships to shoot boats carrying refugees: the ship captain, Frontex headquarters on land, or Member States’ Coastal Guards on land?
- Given the new EBCG's ability to intervene in a country against its own will, if a police/coast guard officer from Member State A deployed as a Frontex officer violates the code of conduct in an operation in a Member State B that is against the Member State’s B government's will, to whom any civil or other liability lies, to which body should complaints be directed and which jurisdiction would hear the court case?
- Will the EBCG continue using weapons during its operations¹?
- Will the EBCG be able to acquire weapons, firearms etc. under the provisions of its new framework?
- In case of joint operations with third countries or in their territory, who has the decision making power for the use of weapons and to whom lies the responsibility and accountability for the different situations that may occur on the ground?

¹ e.g Serious Incident Report no. 228 which took place the 23/11/2015

- If the EBCG decides to discontinue this practice, which actions would it take with regards to Members States' coast guards that do not follow suit, and that continue using weapons to stop boats that carry refugees?

Looking forward to Your kind reply

Kind regards,

Barbara Spinelli – *GUE/NGL Group*

Paloma López Bermejo – *GUE/NGL Group*

Patrick Le Hyaric – *GUE/NGL Group*

Tania González Peñas – *GUE/NGL Group*

Estefanía Torres Martínez – *GUE/NGL Group*

Miguel Urbán Crespo – *GUE/NGL Group*

Stelios Kouloglou – *GUE/NGL Group*

Bart Staes – *Greens/EFA Group*

Norica Nicolai – *ALDE Group*

Rina Ronja Kari – *GUE/NGL Group*

Izaskun Bilbao Barandica – *ALDE Group*

Josep-Maria Terricabras – *Greens/EFA Group*

Curzio Maltese – *GUE/NGL Group*

Marina Albiol Guzmán – *GUE/NGL Group*

Josu Juaristi Abaunz – *GUE/NGL Group*

Soraya Post – *S&D Group*

Yana Toom – *ALDE Group*

Fabio De Masi – *GUE/NGL Group*

Malin Björk – *GUE/NGL Group*

Ana Maria Gomes – *S&D Group*

Philippe Lamberts – *Greens/EFA Group*

Cornelia Ernst – *GUE/NGL Group*

Marisa Matias – *GUE/NGL Group*

Martina Anderson – *GUE/NGL Group*

Lynn Boylan – *GUE/NGL Group*

Matt Carthy – *GUE/NGL Group*

Liadh Ní Riada – *GUE/NGL Group*

Ricardo Serrão Santos – *S&D Group*

Laura Ferrara – *EFDD Group-M5S*

Julie Ward – *S&D Group*

Dietmar Köster – *S&D Group*

Gabriele Zimmer – *GUE/NGL Group*

Ernest Maragall – *Greens/EFA Group*

Takis Hadjigeorgiou – *GUE/NGL Group*

Eva Joly – *Greens/EFA Group*

Maria Lidia Senra Rodríguez – *GUE/NGL Group*

Josef Weidenholzer – *S&D Group*

Eleonora Forenza – *GUE/NGL Group*

Judith Sargentini – *Greens/EFA Group*

Neoklis Sylikiotis – *GUE/NGL Group*

Javier Couso Permuy – *GUE/NGL Group*

Barbara Lochbihler – *Greens/EFA Group*

.....

Sources:

The Intercept article [“Shoot First: Coast Guard Fired at Migrant Boats, European Border Agency Documents Show”](#),

The [unredacted versions of Frontex’s incident reports as published by the Intercept](#)