

Our internal ref. [SAM/FSC/2022]  
Your ref. Ares(2022)4231217

**Mr Matthias OEL**

Director of Directorate B -  
Schengen, Borders & Visa  
DG HOME, European Commission

Dear Mr Oel,

In reference to your inquiry please see below the necessary elements for a concise reply to the questions related to the written question E-1755/2022 “*Detection and notification of maritime emergencies*”:

1. *Under its FASS flight service, what routines and procedures does Frontex use to determine the existence of a maritime emergency on the high seas requiring notification of a competent rescue coordination centre, and are these evaluated?*

Search and rescue (SAR) operations saving lives at sea are one of the cornerstones of Frontex Regulation 1896/2019<sup>1</sup>. Frontex’s Multipurpose Aerial Surveillance (MAS) service operates under the umbrella of EUROSUR, the Agency’s framework for the exchange of information, which clearly foresees support to saving lives as one of its main purposes. Regulation 656/2014<sup>2</sup> lays down rules on how to define a boat in distress.

These principles are in line with the criteria identified by the International Aeronautical and Maritime Search and Rescue (IAMSAR) Manual to determine distress situations. Furthermore, in line with the International Convention for the Safety of Life at Sea (SOLAS), United Nations Convention on the Law of the Sea (UNCLOS), the International Convention on Maritime Search and Rescue (SAR Convention 1979) and the IAMSAR, Frontex immediately shares information on distress situations at sea with the geographically competent and internationally recognised Maritime Rescue Coordination Centre (MRCC) as well as with the adjacent MRCCs acting in the operational area.

Furthermore, when FSAs detect a distress situation at sea and the uncertainty - alert phases are exceeded and there is an imminent danger of human life loss (e.g. shipwreck, boat adrift, bad weather conditions etc.), Frontex Surveillance Aircrafts broadcast a MAYDAY alert, that is received by all vessels (military, law enforcement, merchant and NGO vessels) and aerial assets in the area/vicinity of the incident.

2. *In 2021, how often did Frontex detect maritime emergencies involving people presumed to be fleeing Libya on vessels, for which it did not launch rescue operations?*

In 2021 the total number of potential search and rescue events in the Central Mediterranean detected by Frontex Surveillance Aircrafts is 433 involving 22.696 migrants.

<sup>1</sup> OJ L 295, 14.11.2019, p. 1-131

<sup>2</sup> OJ L 189, 27.6.2014, p. 93-107

Upon the detection of a distress situation at sea, saving human lives becomes the main concern and focus of Frontex aerial surveillance operations. By clearly understanding that speed in communications is of the essence in what regards potential SAR incidents, Frontex uses all means possible and available to provide the collected information to the responsible and internationally recognized Rescue Coordination Centre. In case the distress situation is detected in the search and rescue region of a third country the adjacent Rescue Coordination Centres including those of Member States are also informed.

Frontex does not have a mandate to declare a case as SAR and to launch or coordinate a SAR operation. The Agency only issues an initial assessment of the situation for the consideration of the competent MRCCs. The responsibility and decision lie with the competent Rescue Coordination Centre to declare an event a search and rescue case and to perform necessary actions.

In addition, Rescue Coordination Centres are not obliged to inform Frontex on the actions taken after Frontex transmitting the information on a potential search and rescue case. It is not always possible to stay on scene to understand if a SAR operation is launched or not, either due to other distress cases that require aerial surveillance support or fuel limitations that compel the aircraft to return to base. Accordingly, Frontex has limited information on the number of actual search and rescue operations launched as a result of transmitting potential search and rescue cases to the competent and responsible Rescue Coordination Centres.

3. *Is Frontex aware of the fact that the Maltese Armed Forces apparently allow fully loaded and obviously unseaworthy vessels to sail through their maritime rescue zone without taking the necessary measures, and which cases of this nature have been observed by Frontex itself?*

The Agency following the internationally recognized legal framework, communicates all available and relevant information without delay to the responsible Rescue Coordination Centre as well as to other Rescue Coordinating Centres active in the region as explained in the answer to Question 2.

In case the migrant boat sails through different search and rescue regions, Frontex continues to follow the international procedures informing the competent and responsible Rescue Coordination Centre as well as the other Rescue Coordination Centres active in the region.

Three (03) Serious Incident Reports (SIRs) concerning potential violation of fundamental rights have been launched by the Fundamental Rights Officer (FRO) concerning search and rescue cases in the Central Mediterranean including in the Maltese search and rescue region. The SIRs are still ongoing and handled by Fundamental Rights Officer, hence there is no conclusion of the serious incidents at this point.

Currently, the Agency together with the Fundamental Rights Officer is working on putting in place additional safeguarding measure concerning fundamental rights.

Yours sincerely,

*Electronically signed*

Aija Kalnaja

Executive Director ad interim