

Our internal ref. SAM/FSC/2023
Your ref. Ares(2023)1202950

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 written question [E-294/2023]: 'Obstructions to operations in the Libyan maritime rescue area', submitted by MEP Özlem Demirel:

1. In which cases and on which dates has Libya prevented manned or unmanned Frontex aircraft from entering the Libyan maritime rescue area?

Between 01 January 2022 and 24 February 2023, Frontex identified in its logs six instances that match the description provided. The first two took place on the 24 January 2022 and 11 February 2022, involving unmanned FX aerial assets. Both surveillance missions deviated from the original plan due to Libyan Air Traffic Control (ATC) instructions not to enter their Flight Information Region (FIR), invoking that the asset did not have permission to enter.

Four other cases took place involving manned aerial assets, on the 11 February 2022, 23 February 2022 and two on the 07 September 2022 respectively. On the first two occasions, Libyan ATC directed Frontex aircraft to exit its FIR invoking that they did not have a PPR (Prior Permission Required) needed to enter the FIR, and the asset complied. On the last two occasions, without stating any reason, Libyan ATC warned Frontex aircraft not to enter their FIR. In the absence of an ATC justification, the aircraft continued the planned flight without being warned again to exit the FIR.

2. Who sent notification of this and via which channel?

The information delivered to Frontex was provided by the Contactor's representative in the European Surveillance Room at Frontex headquarters. As per normal procedures, the assets interact with ATC via aeronautical radio frequency.

3. Does Frontex consider such orders to be in line with the Chicago Convention? How has it responded to them?

Frontex does not interact directly with Libyan ATC services. The responsibility for radio communications with ATC services, Civil Aviation Authorities and Airports and other aircrafts in the vicinity for safe operations lies solely with the 'Pilot in Command', that is the Contractor operating the surveillance flights on behalf of Frontex.

The obligation of the Contractor to operate in accordance with Regulation 2018/1139 on common rules in the field of civil aviation¹, which include compliance with the Chicago Convention as well as all other relevant international rules and regulations, is stipulated in the contract signed by Frontex. When there is a need to deviate from the original plan, due to any unforeseen constraints, including ATC instructions, Frontex is informed by the Contractor who is also responsible for all matters related to safety and legal conduct of flight operations.

Yours sincerely,

Electronically signed

Hans Leijtens
Executive Director

¹ Regulation (EU) 2018/1139 of 4 July 2018 on common rules in the field of civil aviation and establishing a European Union Aviation Safety Agency (OJ L 212, 22.8.2018, p. 1-122).