

Transcript of Interview with Mr Ilkka Laitinen, FRONTEX Executive Director

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Introduction

This document contains a transcript of the interview with FRONTEX Executive Director, Mr Ilkka Laitinen, conducted by Dr Matteo Tondini at the FRONTEX HQ in Warsaw, on 12 May 2010. The transcript has been previously submitted for approval to Mr Laitinen, through the FRONTEX Public Relations Office and then returned to Dr Tondini with amendments. The latter have been acknowledged and thus included in the final text. The transcript of interview, in the present form, has therefore been officially approved by FRONTEX. Statements, information and data reported in the transcript, as well as the transcript itself – in whole or in part, may be subject to publication or disclosure.

Transcript (T = Tondini; L = Laitinen)

T: Mr Laitinen, thank you very much for having accepted my interview request.

I would like to begin this interview by talking about the kind of assistance supposedly provided by Frontex to the Italian/Libyan joint naval operation of 18/19 June 2009, which ended with the interception of boat people in international waters by Italian authorities and their handover to the Libyan authorities. According to the Human Rights Watch's Report of 21 September 2009 – entitled 'Pushed Back, Pushed Around' – a German Super Puma helicopter belonging to the Operation Nautilus IV in Malta assisted the Italian authorities.

L: I am glad we started the interview with this issue. This gives me the opportunity to specify that Frontex was not involved in this disputed return operation. Our participation in such an intervention was indeed mistakenly quoted. The helicopter you mentioned was in fact in flight within its area of operations, which did not encompass the area where the Italian action took place. The latter occurred outside of the Frontex operational area.

Generally, it must be noted that Frontex is never in lead of joint EU border control operations, playing a mere coordinating role.

T: Well, coordination does not exclude a form of assistance or activity by Frontex in such operations.

L: But it is the individual responsibility of member states to process applications of asylum seekers and to undertake rescue operations. When a border control operation turns into a rescue operation, it falls totally on the intervening states. These kinds of operations are not within our current mandate.

On the other hand, as you may know, a Frontex Draft Regulation has been recently presented by the European Commission to the Council. The Draft Regulation provides for a co-leading role of Frontex and EU participating states in joint return operations as well as broader tasks in the Agency's cooperation with third countries.

T: Will these new powers entail further ethical dilemmas for the Agency, being directly involved in coordinating return operations at sea?

L: This might possibly entail a political, not an ethical dilemma. Indeed, we should note that the right of boat people to claim asylum or other forms of protection outside MS's territorial waters is not yet acknowledged Europe-wide.

T: Well, it looks like this does not apply to my country of origin – Italy – since the Italian government has repeatedly stated that people who claim asylum on board Italian vessels must be brought ashore in Italy to file their applications, but we are probably the sole or among the few countries in the world which recognize such a possibility... Notably, the new Rules for Frontex operations at sea, for the first time ever, provide an obligation to inform rescued migrants as to the place where they will be brought, so that they might invoke the non-refoulement principle.

L: This is certainly innovative. Again, the point is that the blame is normally put only on the implementation stage, but the original decision is political.

T: Indeed, the Agency's budget has been more than quadrupled over the years... This means that the Commission is increasingly relying on Frontex...

L: It is the Parliament which approves our budget. They have voted to expand our financing.

T: Yes, but currently, it is exactly the LIBE Parliamentary Committee which is opposing the new Council Decision on the Frontex operations at sea...

L: Apparently, there are conflicting instances within the Parliament.

Coming back to the dilemmas you mentioned before, I want to stress that we cannot operate when the international protection of migrants is not effectively secured. The respect of fundamental rights is a crucial part of the European border control service. The latter, as stressed in our policy documents, must be characterized – in the first instance – by the principle of humanity.

The situation in the Central Mediterranean Sea is particularly complex. On the one hand, reportedly, Libya does not readmit persons who are rescued within its SAR zone, and thus the rescue of people in distress at sea has to be undertaken by other states according to international maritime law. On the other hand, Malta tries to oppose the disembarkation of rescued migrants on its own territory...

T: In fact, it is not the case that the rules on the disembarkation of rescued migrants are included among the non-binding guidelines attached to the Council Decision I mentioned before.

- L:** This is true, however, thanks to the recent agreements between Libya and Italy, the Libyan-Italian migration route is now closed. This would therefore be the right moment for the Agency to intervene, with the aim of consolidating the results achieved so far. This is not the time to step back! The only way of doing this is to cooperate with neighboring countries such as Libya.
- T:** Yes, in a recent interview with Der Spiegel, President Gadhafi suggested that the EU should pay € 5 billion per year to Libya to finance a fund aimed at tackling illegal immigration. But in general, how would you seek to develop a fruitful cooperation with neighboring countries such as Libya?
- L:** Cooperation should be divided into two main pillars, i.e. 'Sustainable Partnership' and 'Gradual Development'. This means that, on the one hand the partnership between Frontex and third countries must be durable over time. Long-term sustainability then requires developing our partnership with third countries step by step, through the adoption of protocols and memoranda of understanding. It is basically a confidence building process.
- Thanks to the roles and tasks provided in the new Frontex Draft Regulation, as submitted by the Commission, we could effectively launch capacity building programmes in third countries, aimed at creating the conditions to help in stemming irregular migration flows towards Europe.
- T:** Nevertheless, in this case the Agency would also be responsible for the adoption and implementation of development policies. This, on the one hand, would entail the Agency's direct accountability for the implementation of such policies, while, on the other hand, would imply for the Agency to act in the 'development assistance domain'...
- L:** But our responsibility is claimed anyway, even when Frontex is not involved in operations... Look at the HRW Report! At least with the adoption of this Draft Regulation responsibility will be justified by our capacity to act and take decisions in this field.
- T:** Again, Mr Laitinen, thank you very much for this interview and for your consideration.