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Judgment of the General Court in Case T-205/22 | Naass and Sea-Watch v Frontex

The General Court partially annuls the Frontex decision refusing a request by Sea-Watch for access to documents

By failing to mention certain photographs in its decision, Frontex did not justify the refusal of access to those photographs.

Sea-Watch is a German humanitarian organisation carrying out search and rescue operations in the Central Mediterranean Sea. In October 2021, Sea-Watch applied to the European Border and Coast Guard Agency (Frontex) for access to a series of documents¹. The documents in question were all linked to a Frontex air operation in the Central Mediterranean Sea that took place on 30 July 2021. Sea-Watch wanted to make sure that Frontex and the authorities of certain Member States did not infringe the principle of non-refoulement during this operation. The type of documents varied between reports, communications, minutes, photographs and videos linked to the operation.

Frontex refused access to a total of 73 documents identified as falling within the requested lists. According to Frontex, the documents fell within the scope of several exceptions to the right of access, in particular that aimed at protecting public security. Furthermore, Frontex refused to make partial disclosure of those documents, on the ground that the amount of information that would have to be redacted would be disproportionate to the residual information that could be disclosed and that such a process would undermine the principle of sound administration.

In its judgment today, the **General Court largely rejects the arguments put forward by Sea-Watch against Frontex's decision**. It notes, **however**, that **Frontex failed to mention in its decision the existence of a number of photographs** covered by Sea Watch's request. That omission means that **Frontex did not justify its refusal to grant access to those photographs**. Consequently, **the Court partially annuls Frontex's decision in so far as it refused access to "all pictures and videos relating to air operations in the Central Mediterranean Sea on 30 July 2021"**.

NOTE: An action for annulment seeks the annulment of acts of the institutions of the European Union that are contrary to EU law. The Member States, the European institutions and individuals may, under certain conditions, bring an action for annulment before the Court of Justice or the General Court. If the action is well founded, the act is annulled. The institution concerned must fill any legal vacuum created by the annulment of the act.

NOTE: An appeal, limited to points of law only, may be brought before the Court of Justice against the decision of the General Court within two months and ten days of notification of the decision.

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The [full text and, as the case may be, an abstract](#) of the judgment is published on the CURIA website on the day of delivery.

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Images of the delivery of the judgment are available on '[Europe by Satellite](#)' ☎ (+32) 2 2964106.

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¹ Under [Regulation \(EC\) No 1049/2001](#) of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents.