

front-LEX Files Appeal in Hamoudi v. Frontex

Revealing the General Court's Incorrect & Unattainable Standard of Proof

BREAKING: #CJEU – Alaa Hamoudi, a Syrian refugee, arrived on EU territory to seek asylum. Instead of permitting him to make an application, European agents kidnapped, forcibly transferred, and abandoned him in distress at sea for 17 hours, after which he was captured and detained in Türkiye. *front*-LEX sued the EU Border Agency Frontex, seeking € 500 000 EUR in compensation for the damages Hamoudi incurred.

In Court, Frontex argued that Hamoudi's nose in the visual evidence he provided is dissimilar to how his nose appears in his passport and refused to hand over to the Court the EU's own Anti-Fraud Agency (OLAF) report which confirms Hamoudi's allegations in connection with the incident.

The Court of First Instance adopted Frontex's position, finding the videos, photos, and other forensic evidence submitted to substantiate Hamoudi's presence in this 'pushback' incident to be insufficient to prove he was one of its victims. Despite extensive digital evidence, the General Court was somehow unable to determine 'his or her' features.

Now *front*-LEX appeals this ruling before the EU Court of Justice – refugees should have their day in court and enjoy the standard of proof everyone else enjoys. The EU's "complete system of remedies" should provide legal protection and effective remedy, not in theory but in practice!

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30.03.2024 – *front*-LEX has filed an appeal of the CJEU's decision to dismiss an action for damages brought by Syrian refugee, Alaa Hamoudi. Mr. Hamoudi was illegally 'pushed back' from Greece to Türkiye in April 2020, in the context of Frontex's Joint Operations in the Aegean Sea Region.

After landing on the Greek island of Samos with a group of 21 other asylum seekers, Greek authorities abducted, detained, forcibly transferred and abandoned the group on a 'death raft' with no life vests, water, food, means of navigation or communication. They were left adrift for 17 hours. At grave risk for their lives, a Greek vessel repeatedly pushed the dinghy back into Turkish territory while a Frontex plane surveilled from above.

On March 10, 2022, in a ground-breaking legal action, *front*-LEX filed a case against Frontex challenging this 17-hour long 'pushback' operation in the Aegean Sea Region. Despite the inherent

difficulty of documenting these systematic, illegal, and covert ‘pushbacks’, *front-LEX* produced exceptional digital evidence from a joined forensic investigation including [Lighthouse Reports](#) and [Bellingcat investigative journalists](#). **The submitted evidence included video recordings and photographs documenting the ‘pushback’ incident.** This evidence was corroborated by the EU’s own Anti-Fraud Agency, OLAF, which investigated the incident and confirmed Frontex’s involvement in this criminal policy.

However, in its [judgement on December 13, 2023](#), the Court deemed this evidence insufficient to establish that the ‘pushback’ in question took place. Applying an **unattainable and incorrect standard of proof**, the CJEU dismissed the Action.

While the Court failed to take into consideration the trauma endured by Mr. Hamoudi and his vulnerability as an asylum seeker in assessing his testimony, **it exempted Frontex, a coercive border agency, from any legal obligation to provide it with reports in its exclusive possession.**

Now, *front-LEX*, on behalf of Mr. Hamoudi, is appealing the Court’s decision, which applied an unattainable standard of proof for enforced disappearance operations and asylum cases on the one hand, and completely ignored evidence available and held by Frontex which substantiates Mr. Hamoudi’s claims on the other.

This judgement, now under appeal, forms part of a **concerning string of cases in which the CJEU has simply avoided assessing the joint responsibility of Frontex in well-documented ‘pushback’ operations.** Given the vast amount of evidence produced in this case, the Court’s judgement leaves open the disturbing question of **how asylum seekers can ever prove and seek redress for the fundamental rights violations committed by Frontex at sea.**

On behalf of Mr. Hamoudi, *front-LEX*’s appeal going forward will continue to probe the completeness of the EU’s system of legal remedies. It will test the Court of Justice’s ability (and willingness) to live up to its mandate and provide access to justice for asylum seekers whose fundamental rights are systematically broken at the EU’s external borders.

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