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0. Introduction

In 2015, at the height of the European migrant crisis, Frontex chief Fabrice Leggeri made a statement that the organization should not be turned into a "search-and-rescue mission" covering the entire Mediterranean (Kingsley & Traynor, 2015), declining to proactively ensure the safety of migrants attempting to reach Europe via the sea route. This statement, as well as the controversy surrounding it, exemplified the ongoing dichotomy in perceived objectives for EU border protection. On one hand, it is seen as desirable by many, including heads of governments of member states of the European Union, for the Union to have direct control over the flows of migrants into its territories. On the other hand, groups such as Amnesty International have frequently expressed that the protection of human life, including the active search and rescue of migrants in situations of maritime emergency on the Mediterranean Sea (Amnesty International, 2015), should be a priority. It is the purpose of this paper to attempt to bridge this gap and to propose potential solutions to the apparent deadlock on the external borders of the Union. The research questions will be the following: How can the ongoing dispute over the role of border protection in the EU be explained? Is there a possibility to 'bridge the gap' between opposing sides? And if so, how can the role of Frontex be shaped in the future to adapt to the norms of both border protection and the protection of human lives? These questions build onto each other: without understanding the issue in depth, one cannot hope to determine a way out. Other topics that will necessarily have to be addressed in this paper, but do not constitute its main subject, are conflicts in the Middle East and North Africa region and the Dublin System. The remainder of this paper will be structured in four main parts. At first, the issue and controversies surrounding migration routes through the Mediterranean Sea and Frontex will be explored. In order to prepare for the later parts, this will be done using two main perspectives, namely the humanitarian perspective and the securitization perspective. Second, the existing and relevant decision-making processes and power structures will be analyzed. This part has the main goal of understanding not which solutions may or may not be desirable, but to what extent each of them would be feasible given the highly complex political and social environment that is the European Union. Third, it will be attempted to find potential solutions to the above-mentioned dichotomy. This part will mainly address the second and third research question. Fourth, this paper will take a look into the future and attempt to conceptualize how the proposed plans of action would influence the nature of border protection in the European Union. Lastly, after these four parts, the insights and findings of this paper will be summarized and the research questions answered.

I.   Frontex: the dichotomy of approaches

It is now time to describe the history behind and the situation regarding Frontex. As mentioned in the introduction, the latter will be done in two main parts. First, the humanitarian perspective will be used to show how demands have been made for the European Union to take active steps to minimize the number of migrant fatalities in maritime accidents while sailing on the Mediterranean Sea. Second, the securitization perspective will be used to understand both how the influx of migrants into the European

Union, peaking during the 2015 European migrant crisis, was framed by certain actors as an existential threat to security in the Union, and how this perspective was transformed into normative expectations for Frontex.

Frontex was created in 2004 as the European Agency for the Management of Operational Cooperation at the External Borders as a coordinating agency that was meant to represent a compromise between those striving for a unified European border guard and those reluctant to give up national sovereignty in this sector (Perkowski, 2019). The agency did not replace or remove the responsibility of member states to control their external borders, but was meant to "ensure effective management of the external borders" through coordination and to share "best practices on the acquisition of travel documents and the removal of illegally present third-country nationals" (Ekelund, 2014, p. 101), among others. It was then expanded in terms of both financial and personal resources, as well as in terms of mandate, until it was reformed into today's European Border and Coast Guard Agency (Perkowski, 2019).

While the numbers have been receding ever since the 2016, every year from 2015 to 2019 has seen over 500 recorded fatalities of migrants attempting to cross the Mediterranean Sea, with an average of over 1,600 yearly fatalities over the same timespan (Missing Migrants, 2020). Both this and the cooperation of the European Union with countries on the southern coast of the Mediterranean, which in some cases like Libya have very poor track records in the respect and enforcement of human rights led to an outcry about European values being undermined or destroyed (Woollard, 2018). The overarching policies of non-intervention and deterrence that are meant to stop prospective migrants from even attempting to cross the Mediterranean Sea, also called the "war on smugglers" (Moreno-Lax, 2018, p. 133), have been accused of "annulling migrant rights" (Moreno-Lax, 2018, p. 133). She notes that the approach has been unjustly framed as one of "minimalist humanitarianism" (Moreno-Lax, 2018, p. 132), while actually robbing individuals of their fundamental rights. Additionally, Moreno-Lax (2018) points out the problematic questionability of not only the moral dimension, but also the effectiveness of this type of policy itself: indeed, she finds that a paradigm of deterrence has not actually been successful in reducing the number of irregular entries through the maritime route.

On the other hand, the influx of migrants into the European Union via the three main Mediterranean routes has often been framed as a threat to the Union and the member states as political entities, but also to a more abstact conceptualization of European cultural integrity (Berry, Garcia-Blanco, & Moore, 2015). Individuals pertaining to right-wing political ideologies were shown to have a tendency of being more anxious about the influx of refugees (van Prooijen, Krouwel, & Emmer, 2018). Additionally, the same study showed that radicalism increases the probability of an individual believing in a "simple solution" (van Prooijen, Krouwel, & Emmer, 2018, p. 146), the right-wing version of which representing a total ban on any immigration into the European Union. These ideas were then transferred and transformed into normative expectations for European border protection carried out by Frontex. As

Perkowski (2018) notes, the agency was, and still is, deemed a "defender of European citizens against migrant threats" (p. 457). As pointed out above, however, Frontex has appeared to have failed in this aspect as well, as the adopted policy of deterrence does not seem to have the intended effects of strongly reducing the number of entries into the European Union (Moreno-Lax, 2018).

II.   The peculiar status of Frontex

Frontex, first established in 2004, is a decentralized agency of the European Union (European Union, n.d.). As such it is subject to both power structures of the European Union as such as well as internal power structures and stakeholder relations within the agency. The complexity of these various systems of hierarchy and decision-making processes makes it difficult to understand how the agency works and how it can be influenced (Ekelund, 2014), and will thus be analyzed in this part in order to gain a better understanding of how one could hope to implement effective changes to EU policy regarding border protection and migration. This will be done in two parts, hinted at above. First, the general decision-making structures of the European Union will be explained. Second, those more specific to Frontex in particular, both internal and external, as well as power structures surrounding it, will be delved into as much as possible within the limits of this paper. As Ekelund (2014) notes, however, the "chains of accountability are blurred" (p. 99) in the European Union's growing system of agencies, making it increasingly difficult to clearly identify structures and hierarchies.

The European Union is a complex intergovernmental and supranational union with currently 27 member states. It has seven official institutions, four of which will be discussed here. First, the European Parliament represents a legislative authority that gets directly elected by the citizens living in the European Union every five years (McCormick, 2017). The Parliament is critical in the decision-making processes in the Union due to its role in debating and deciding on most legislation that gets proposed in the European Union. Members of the European Parliament get elected in nationwide elections that take place at the same time in the entire Union. If they succeed in winning a seat in the Parliament, it is important to note that they then represent the entirety of the Union, as opposed to just their 'constituencies', meaning their country of origin. Second, the Council of the European Union (not to be confused with the European Council or the Council of Europe), also known as the Council of Ministers, can be seen as a second chamber of legislative power in the European Union (McCormick, 2017). The Council of Ministers represents the governments of member states: it is composed by varying arrangements of 27 ministers from the national governments that meet to discuss issues that are part of their respective portfolios. Unlike the members of the European Parliament, as stated before, these ministers do represent specifically their own governments. The Council of Ministers is thus one of the places where national governments can directly take influence on EU-wide policymaking. Third, the European Commission is the executive organ of the European Union. It is responsible for "developing proposals for new laws and policies, for overseeing the execution of those laws and policies once they are adopted, and for promoting the general interests of the EU" (McCormick, 2017, p. 80). Fourth, the

European Council is composed of the heads of state or of government of the member states. It has less of a direct role in policy-making, but is responsible for overall agenda setting for the entire Union.

Frontex was established by a Council Regulation (no. 2007/2004), meaning that member states and national governments played a large role in the establishment of this agency. National governments also continue to exercise their influence on the orientation and decision making processes of Frontex: the management board of the organization is composed of "two Commission representatives and one representative per member state" of the Schengen Zone (Ekelund, 2014, p. 101). While this paper was written in 2014, before the "rebirth" (Perkowski, 2019, p. 1182) of the agency in 2016, Perkowski (2019) confirms that this layout continues to exist. As she notes, conceptualizing the agency as a unitary actor that behaves according to clear, rational incentives poses the threat of misunderstanding the very nature of the agency. Rather, she asserts, "Frontex can better be understood as a fragmented organization that is subject to diverse and at times contradictory pressures" (Perkowski, 2019, p. 1182). In addition to the board, the "budgetary authority" (Perkowski, 2019, p. 1183) is composed of the European Parliament and the European Council, again adding to the complexity of the network of actors exerting control over the agency. The author of that paper also adds that informal means of control may also play a larger role than often estimated. To summarize her findings, Perkowski (2019) states: "the agency is better understood as a fragmented, contradictory and only loosely coupled organization [than as a unitary, rational actor]" (p. 1195). This adds to the issue of trying to adapt or improve it, as the possible methods to do so do not appear completely clear.

III.   Solving the dichotomy: an impossibility?

To address the discrepancy between the objectives of the humanitarian approach and the securitization approach, multiple points must be raised. First, it would be foolish to assume that any possible solution would be simple to find or to reach. Second, such a solution must find a way not only to unite the two conceptual approaches (humanitarian and securitization), but also political leaderships of the member states of the European Union as well as other institutions and actors within the Union, which may be more difficult yet. This paragraph will propose two approaches to improve the current functioning of EU border protection: renationalization and continued federalization.

The renationalization proposal is based off the knowledge that one of the principal missions of Frontex, called Operation Triton, was created to replace an Italian national mission called "Mare Nostrum" which was deemed too expensive for a single country to run. By some measures, this nationally-led mission was more successful than the European counterpart that succeeded it, as it regularly managed to save lives that would otherwise have been lost at sea by actively looking for them on the Mediterranean sea, with a claimed total of over 70,000 lives saved ten months into the mission (Jones, 2014). Regarding the securitization paradigm, they at least ensured knowledge over, though not necessarily the ability to restrict, the migration flows through the Mediterranean. Disasters at sea that cost hundreds of lives little

time after the cancellation of this mission led to calls to either renew Mare Nostrum operations or to expand Frontex and its Triton mission to similar dimensions (Borger, 2015). Mare Nostrum was also argued not to constitute a 'pull factor', reducing the incentive to restrict Mediterranean rescue operations from a securitization perspective (International Organization for Migration, 2014). Due to the fact that Operation Mare Nostrum was cancelled due to insufficient funding and financial support from other member states, it would be conceivable that the patrolling of the maritime external borders be placed back solely into national hands, with a well-structured funding program to support it.

The second option that will be proposed in this paper has been named continued federalization. This alternative calls for the continuation, not the scrapping of, Frontex or potential Frontex-like successor agencies within the EU. It would involve the establishment of a clearer structure of external accountability and a reform of internal means of governance. As Perkowski (2019) notes, the currently existing structures obscure the various processes within Frontex and make it difficult to either understand their way of operating or to influence it. By creating clear accountabilities it would be easier to determine who the agency responds to: the Council? The Commission? The member states' individual national governments? This, in turn, would allow to set once again clear goals for the agency to pursue, and in consequence, a higher chance of succeeding at both goals set forth by the two approaches of humanitarianism and securitization. At this moment it appears that this is the option preferred by lawmakers, as shown by the latest developments described by Bossong (2019). In late 2019 yet another reform to Frontex was brought on its way that included an expansion of both financial and personal resources, with a stated goal of 10,000 border guards. While he argues that this specific reform alone will not suffice to fulfil the goals stated for the agency, he argues that there is reason to be optimistic especially for the humanitarian perspective due to Frontex "increasingly [being] subject to legal controls" (Bossong, 2019, p. 1).

It is also important to recognize that any attempt to resolve the issue of border protection activities at the external borders of the European Union necessarily has to involve more than just Frontex. Issues like migration are highly complex and cannot simply be resolved by modifying one single aspect. Two points stand out that need to be addressed, but are not within the specific scope of this paper. First, many countries in the Middle East and North Africa region are conflict-ridden. This may be to different extents, but it is clear that an often existing focus on so-called "pull factor[s]" (Moreno-Lax, 2017, p. 128) fails to recognize the often prevailing push-factor reasons for prospective refugees to flee their home countries. If one is to reduce or at least control the flows of migration into the European Union, it seems unavoidable to tackle migration at its root by favouring not unilateral retention of migrants by countries such as Libya (Moreno-Lax, 2017), but developmental progress that reduces the incentives for fleeing the region in the first place. Second, the Dublin System still in place to this day requires that asylum seekers be able to apply for asylum only in the first country in which they made landfall in the European Union (Kasparek, 2016). This system was created as early as 1990 and came into effect in

1997. During the European migrant crisis, it became clear that this system put heavy burdens on Mediterranean members of the Union, which logically were the ones registering the most arrivals from the maritime routes of migration. Nonetheless, calls to scrap or heavily amend the system have not been answered so far, leading to frustration from these countries, such as Greece and Italy, who under the system are required to accept disproportionate numbers of refugees when compared to northern states. Calls for a more structured redistribution system have so far remained unanswered. This is another aspect that cannot be excluded from the necessary holistic approach to resolving conflicts around EU external border management (Bossong, 2019).

IV.   Implications for the future

Potential implications of the above-mentioned proposals are manifold and it is important to note that this paragraph will largely consist of informed speculation at best. Despite this, some prognoses can be made. For both proposed solutions, it is proposed that there is hope that they would show an ability to fulfil the goals of both the humanitarian and the securitization approach to some degree. However, it is also easy to see that both options would see significant resistance from within the union, though for different reasons.

First, the main difficulty in attempting to implement the renationalization option will be resistance by EU member states that are not directly involved in the patrolling of the Mediterranean Sea, as they would be asked to contribute to funding of a border protection operation which they have no direct control over. This is an aspect that led to the eventual failure of Italy's operation Mare Nostrum, so disregarding it would lead to certain failure. If an eventual national successor to Frontex' operations can be framed as contributing to both European and national interests of the various member states, however, it is thinkable that support funding be made available for this solution. On the other hand, however, the renationalization of border protection duties would constitute a rare occurrence of competences being relegated from the European to the national level, going against the continuous trend of gradual transferral of competences to the European Union. This would possibly cause great backlash from the European Union's institutions, specifically the Commission and the Council, which would lose the loosely-defined control they have over Frontex and its operations at the moment (Perkowski, 2019). Regarding the protection of human lives (humanitarian approach) and the degree to which such a solution would allow for countries to know and control who gets into their country (securitization approach), one can work off the existing experiences with Operation Mare Nostrum to assume that the renationalization option would allow for these two criteria to be fulfilled at least in some respect. At the same time, however, it must be noted that especially Italy has since had a change of power relations between political ideologies, with right-wing populist politics now playing a large role nationally and even having reached the national government. This means one has to expect that Mare Nostrum could not simply be 'revived' or copied to a new program today. Such a solution would also likely be seen to

some extent as a failure of the European Union to effectively use the competences given to it by its member states and as subsequent 'backtracking'.

Second, the continued federalization would be more likely to attract criticism and resistance from national governments that are generally opposed to the delegation of competences to the Union. While this group has overlaps with the above-mentioned member states that would have to fund a renationalized coast guard without having direct means of influencing it, the groups of countries are not identical. For example, Germany, which would be predicted to oppose the first solution, has actually spoken out in the past for establishing a "common European border guard" (Perkowski, 2019) and would thus be expected to support this solution. Similarly, the institutions of the European Union, namely the above-listed Commission and Council, are expected to support this kind of perspective. Supposing a clear system of accountability, this solution would allow for the fulfilment of the criteria set forth by the humanitarian approach under the careful watch of the institutions of the European Union, including the European Court of Justice for judiciary oversight. As for the criteria from the securitization approach, this solution does not imply either success or failure per se, as the ability to control the migratory flows into the European Union would depend largely on the extent and nature of the reforms brought to Frontex. It is likely, however, that in case of a successful reform of Frontex to be more directly accountable and more centralized would indeed succeed in increasing the control over the EU's external borders. This is because for many national governments, the securitization approach seems to receive more attention than the humanitarian approach. It follows that any reform would necessarily need to prove at least some form of success in the securitization dimension, without which it would never be approved in the first place. Resistance against this solution would probably arise in the ranks of countries such as Hungary or Poland, which in the last year have widely adopted both anti-migration and anti-European discourses, both of which would oppose such a solution. It is likely that any attempt to further unify and empower a common European border protection agency such as Frontex would be met with outrage towards Brussels claiming that the Union is systematically chipping away at the sovereignty of the nation states that it is comprised by.

V.   Conclusion

The European Border and Coast Guard Agency, also known under its shorter alias Frontex, is a decentralized agency of the European Union tasked with coordinating and supporting national entities in enforcing border protection measures at the external borders of the European Union. It was created in 2004 and since reformed and expanded in terms of financial and personal resources as well as in terms of scope. Nevertheless, the agency remains clouded in unclear systems of decision-making and accountability.

During the 2015 European migrant crisis and the ongoing, though decreasing, migratory flows from the MENA region to Europe via the Mediterranean Sea, it became apparent that there were significant issues

with the activities of Frontex. These have been categorized into two broad perspectives. The humanitarian perspective is concerned with the large loss of life at sea among prospective refugees. Second to this, it also concerns itself with the treatment of migrants in other aspects, such as the current policy of cooperation with some countries with poor human rights track records (Woollard, 2018). The securitization perspective is heard with increasing frequency in political discourse, but also within certain parts of societies. In this perspective migration can be framed as a threat from which Europe must be protected (Perkowski, 2018). Less radically, it is often expressed to be desirable to at least have the ability to control the flows of migration into the European Union. It was found in this paper that currently Frontex and European border protection activities fail to fulfil the objectives of either perspective.

The answers to the research questions are as follows: the divergence between and conflict around the goals of border protection agencies in Europe can be explained as a consequence of complex processes of intentional framing regarding the very nature of migration towards the European Union and the viewing of migrants as either victims in need of help or part of a wider phenomenon that needs to be regulated and controlled. The two perspectives, while often clashing, do not directly contradict each other, making it possible in theory to 'bridge the gap'. The two proposed plans of action, renationalization and continued federalization, are two suggestions as to how to do this. In practice, however, the situation is not as clear: actors such as governments, institutions and even individual politicians do not always act predictably or even rationally. This is, at the same time, the main weakness of this paper: it assumes a certain degree of predictability in most actors for the foreseeable future. At the same time, this also leads to the main recommendation for additional research: a study into how various actors, be it governments, EU institutions, or politicians, each see potential modifications of the current border protection regime would greatly help understand current and future developments in the sector.

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