

Shifting out of Border Control to Keep ‘Unwanted’ People Away: the Case of the EU

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In the last decades, national governments have implemented a number of measures to keep ‘unwanted’ migrants away from their territories. Governments have done so by externalising conventionally national practices of border control by involving migrant-sending and transit countries (Boswell 2003), which is also termed as ‘shifting out’ of border control (Lavenex 2006). In Europe such measures have been developed at the EU level to stop the inflow of irregular migrants coming into the EU, especially into the Schengen area.

The aim of this paper is to examine this ‘shift-out’ of the EU’s border control with a focus on the role played by the EU agency Frontex. Frontex was established in Warsaw in 2004 in order to facilitate cooperation among EU member states for migration control at the EU’s external borders. It has offered practical assistance to the EU member states, by organising joint border operations, providing common border guard training and conducting risk analysis. It has worked closely with international bodies such as the United Nations High Commissioner for Refugees (UNHCR). Although the research literature has not paid much attention and, importantly, it is not an actor in international legal terms, Frontex has played an important role in establishing cooperation with migrant-sending and transit countries through working arrangements.

This paper identifies that Frontex has cooperated with border agencies of 17 countries in Balkan, Central Asia, Africa, Middle East and Latin America in the following areas. The first area to point is the EU’s joint border operations. Frontex is the main organiser of joint border operations, and migrant-sending and transit countries are increasingly involved in the operations under the framework of Frontex’s working arrangements as well as bilateral agreements with EU member states. For example, Senegal helped the EU by letting the EU’s joint operation (‘Hera’) to patrol the Senegalese territorial sea to migrants attempting at going to Spain’s Canary Islands (Bailey 2006).

The second area of activities is the capacity building. Frontex has assisted border agencies which concluded working arrangements in the fields of risk analysis and border guard training. In both cases, partner border agencies have received the European model for risk analysis and border guard training. A concern is that migration has become associated with the notion of ‘risk’ (security-migration nexus) in the European context in the case of risk analysis. Similarly, border guards of sending/transit countries can foster notions about what is appropriate according to the European standards.

The third area is the deployment of liaison officers to migrant-sending and transit countries. Like

national governments, Frontex can send liaison officers to international airports and other immigration check points in non-EU countries. No deployment has been made yet, the potential impact of this is not negligible because it will enable the EU to regulate the movement of migrants-to-be before they leave their countries.

As these show, the border control functions that are conventionally conducted by migrant-receiving society's governments have been conducted outside of their countries, and the EU has assisted this move. An implication of this is addressed in relation to the legal status of Frontex to act in external relations. Frontex is a *non-international* organisation and therefore its working arrangements are *not* regarded as international agreements. They are 'not meant to be of a political nature but instead are to administrative tasks only' (Fink 2012: 25). Despite such seemingly politically insignificant nature, the above mentioned activities are indeed significant, especially when Frontex works with countries *in question* in terms of handling of migrants (Statewatch 2012; Rijpma 2009). For instance, Frontex is under the negotiation with Libyan authorities to establish a cooperative relationship. With a possible working arrangement between Frontex and the Libyan border control authority, people fleeing from the country to Europe to make asylum can be stopped at the point of departure. Thus the cooperation through sub-regional agencies like Frontex, which is at the moment not highlighted in academic research, may bring controversies in the future as its impact has become more evident.

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