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EU'S HUMANITARIANISM: THE CASE OF FRONTEX AND ITS FUNDAMENTAL RIGHTS PROTECTION MECHANISMS

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Abstract

This research paper explores EU's policies regarding the protection of refugees and migrants, specifically through Frontex. Post the 2015-2016 refugee crisis, Frontex's expanded role led to heightened border security, impacting human rights. Consequently, the agency implemented certain mechanisms to improve its consideration of fundamental rights at an operational level. However, an implementation gap exists between the theoretical introduction of these mechanisms and their practical effectiveness. The paper analyzes and assesses the agency's mechanisms for protecting the fundamental rights of individuals on the move. This analysis concludes that the primary responsibility for fundamental rights violations lies with the national authorities, as Frontex primarily serves as an advisory body without executive powers, an area of cooperation that requires enhancement. The findings are supported by primary and secondary data analysis. Primary data is obtained through qualitative research, specifically one-to-one interviews with six Frontex border guards. This dissertation aims to provide reflections and conclusions on EU policies, practices, and procedures related to the protection of fundamental rights for refugees and migrants through Frontex, as well as to propose necessary changes based on the research findings.

Key words: EU policies, Frontex, border securitization, fundamental rights, implementation gap

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1. Introduction

Frontex's primary responsibility involves upholding the rights of migrants and refugees at border operations in alignment with international and EU laws. Despite the measures taken, persistent allegations of insufficient rights protection, particularly in migration and asylum scenarios, indicate a potential implementation gap within EU migration policies stemming from perceived institutional bilingualism. This research paper primarily aims to investigate EU policies concerning the regulatory framework for safeguarding fundamental rights of migrants and refugees, with a specific focus on Frontex's role in ensuring such protection within the EU. The study involves evaluating the effectiveness of Frontex's mechanisms in upholding the rights of those seeking refuge in the EU, while also examining the presence of any implementation gaps in these mechanisms.

The study focuses on Frontex, and employs both primary and secondary data analysis. Primary data was collected via in-depth interviews with Frontex border guards to evaluate the efficacy of the Agency's fundamental rights training mechanisms. The Frontex Press Team also provided insights into the Agency's operations via email communication. Secondary data sources, including online search engines, contemporary data from governmental and non-governmental agencies. The study integrates the primary and secondary data to provide a comprehensive analysis of the research question.

The paper's structure is as follows: Section 2 contextualizes Frontex's role in fundamental rights in relation to the securitization theory conflict. In Section 3, methodology, the approach, data collection, and analysis methods are outlined. Section 4, analysis, delves into Frontex's

rights protection implementation gap, referencing regulations and the available data. Section 5 critiques existing mechanisms. Section 6 discusses study contributions, identifies research gaps, and offers recommendations for fundamental rights in border and migration management. The conclusion sums up key findings and discusses research implications.

2. Theoretical Discussion

This section places Frontex in the fundamental rights context, noting the tension between its tasks and securitization theory. It addresses the operational implementation gap, rooted in weak governance and accountability, and presents varied views on Frontex's actions. Citing studies and reports, it emphasizes the controversial nature of Frontex's operations and the associated implementation gap.

According to the Copenhagen School, securitization is the excursive procedure which transforms a social issue into a “threat” and creates the need to enforce unprecedented actions to tackle the threat (Grigoriadis and Dilek, 2018, p.2). Moreover, according to the Paris School, securitization entails the “capacity to control borders, to manage threats, to define endangered identities, and to delineate the spheres of orders” (p.3). It has been argued that one of the products of securitization was the establishment of Frontex. The agency is a coordinator in relation to the operations and the cooperation between the Member States in order to strengthen “the security at the external borders of the EU Member States” (p.5). It operates by fulfilling six main tasks, coordinating operational collaboration among Member States for external border management; aiding training of national border guards and setting common standards; conducting risk analyses; tracking border control research; offering increased technical assistance at borders; and assisting joint return operations." (p.5)

As mentioned, the EU established policies to manage migration and protect rights, aligning with Frontex's roles as per international and EU laws, such as articles 77,78,79,80,81 of the Treaty of the Functioning of the European Union (TFEU). Yet, a visible gap between policy goals and actual operations, especially in Frontex's activities, highlights an implementation gap in EU policies.

The implementation gap refers to the “discrepancy” between the stated goals of policies and their actual implementation on the ground (Czaika and de Haas, 2013, p. 496). Policies may not be implemented due to “practical, planning, or budgetary constraints or as a consequence of corruption, ignorance, or subversion”. This implementation gap can be considerable when the stated policies are “unrealistic or detached from concrete migration experiences”. The implementation gap in Frontex's operations can be attributed to several factors, including the lack of resources and capacity, weak governance and accountability mechanisms. Addressing the implementation gap in Frontex requires strengthening its governance and accountability mechanisms, enhancing the transparency of its operations, and providing adequate resources and training to its staff.

The literature review shows that the opinions are greatly divided in relation to Frontex's operations since some parties are in favor of the agency but some harshly judge its operations and accuse the agency of violations of human rights.

Andrew W. Neal (2009) argues that the agency serves a “regulatory” role which aims at the harmonization of the “external EU border management and control” by promoting “bureaucratic and technological means” (Czaika and de Haas, 2013, p. 350). He underlines the agency's competency for “risk analysis” in order to “manage and regulate both migration and the practices of Member State border security apparatuses”. This approach is minimally covered in literature due to a prevalence of studies highlighting the agency's negatives: lack of transparency, task inefficiency, and human rights violations by Frontex. The scarcity of resources on the agency's positive

impact on migration control could indicate its partial failure in meeting fundamental rights protection responsibilities.

There exists a considerable body of literature on how Frontex's policies lead to human rights violations. It is argued that the "border control operations" do not protect people in need and they raise the question of "the legality of these operations with regard to international obligations towards people seeking international protection" (MIGREUROP, 2014, p.6). Although the agency states that it has as its first concern the "sealing of borders", it has been accused for violations of the right to asylum since migrants and refugees are "pushed out of European waters even before a detailed examination is carried out regarding whether they are entitled to remain in Europe or have the right to some form of international protection" (p.6). However, there are accusations against Frontex for violations of the principle of non-refoulement since "boats of migrants are being pushed back from Greek waters towards the Turkish border" (p.6).

The FRONTEXIT campaign criticizes the agency's operations and argues that their authority does not respect the fundamental rights (FRONTEXIT, 2014, p.5). FRONTEXIT argues that while the agency reassured the campaign that the principle of non-refoulement is respected, "disembarkation in a third country" was permitted during the Poseidon Sea 2012 operational plan which states that "if the operational plan does not state otherwise, priority is given to disembarkation in the third country from which the vessel originated" (p.8).

These accusations were confirmed by the European Anti-Fraud Office (OLAF) which conducted a "year-long investigation" against Frontex, which was ended in February 2022 (p.8). The OLAF report explains the agency was involved in "pushback operations in the Aegean Sea and allegedly covering up of illegal acts, including leaving of migrants adrift in engineless life rafts" (p.8). As a response, the agency stated that, in collaboration with the Greek

forces, they have enforced “an action plan” to improve the “past and present” mistakes, “to engage in Structured Dialogue, bringing the Fundamental Rights Officers on both sides to the table, while enabling interaction both the political and practitioner levels on operational issues” (FRONTEX, 2022)¹ The report verifies what the previous literature has been protesting about.

To summarize, the present theoretical discussion attests to the implementation gap with regard to migration and border control, as Frontex has failed to discharge its responsibility to safeguard the fundamental rights of migrants and refugees. A more systematic and theoretical inquiry is imperative to evaluate the adequacy of the training provided to Frontex's coast guards on the protection of fundamental rights during the agency's border operations.

3. Methodology

This section details the research methodology, encompassing data collection methods like interviews with Frontex border guards and secondary data analysis. Using the critical case approach, the study centers on Frontex to analyze EU migration and fundamental rights policies. It covers the research sample, qualitative data analysis methods applied to primary and secondary data, and addresses research ethics and encountered limitations.

3.1. Data collection method

The current study involves interviews and the analysis of existing secondary data, to enhance our understanding of the fundamental rights training provided to Frontex's border guards as part of their basic training.

¹ FRONTEX, *Statement of Frontex Executive Management following Publication of OLAF Report*, frontex.europa.eu (2022).

This study used in-depth interviews with Frontex's border guards to gather information on their fundamental rights training, including course offerings, effectiveness, and suggestions for improvement. The limited availability of information on this topic necessitated interviews as a valuable source of data. The open-ended questionnaire allowed for participants' subjective opinions and provided data difficult to obtain using other methods. The questionnaire's structure addressed gaps in literature on Frontex's border guards' fundamental rights training. The Frontex Press Team was also contacted to provide answers to the questions addressed to the border guards, and they forwarded the questions to the operational unit within Frontex and provided additional information on the training unit.

Finally, it employed online search engines as the data collection method for secondary research, which lasted six months. The gathered data were meticulously evaluated for credibility, relevance, and recency, with a focus on contemporary resources from the past five years due to the numerous regulatory changes regarding the Agency. The selected sources included both primary and secondary sources from governmental and non-governmental agencies, commercial information sources, and newspapers.

3.2. Research sample

In relation to the primary data, the research sample includes six Frontex's border guards of Category 1, namely standing corps, who have received the training on the protection of fundamental rights. The sample was collected through the non-probability sampling and was gathered through personal contacts and the snowball sampling.

The research sample consisted of male Category 1 border guards, with limited diversity in terms of nationality and gender. Most participants were new to the agency, with a range of roles including forced return and support officers, information officers, and debriefers. Despite

efforts to ensure diversity, the availability of suitable candidates was limited. Recruiting border guards for the research proved challenging as some were uninterested or hesitant to participate, possibly due to fears of repercussions.

In terms of the selection of sources for this study, the articles pertaining to the procedures, function, and fundamental rights mechanisms of the Agency were gathered primarily from peer-reviewed scientific journals and the official Frontex website, thus ensuring their reliability and credibility. Given that Frontex is the case study for this dissertation, the selected articles predominantly consist of publications from reputable journals, non-governmental organizations, and newspapers which analyze the allegations of fundamental rights violations against Frontex.

3.3. Code of Ethics and Research Limitations

Prior to the interviews, all participants received a consent form and were informed of their rights, including the ability to withdraw at any time and eliminate uncomfortable questions. They were also sent an email with all the questions to be asked. The researcher respected participants' rights throughout and informed them they could access the results of the interviews or dissertation.

Six one-to-one interviews were conducted to gather insights and opinions on the training, courses offered, instructors, effectiveness, and recommendations for improvement. This research is original and constructive in nature as it fills a gap in the literature and provides internal information on Frontex's fundamental rights training. However, several limitations were encountered during the research that require further investigation.

In relation to sample representativeness, the small number of participants was concerning, six in total, since qualitative research include small groups of people. This number of

participants can not be considered representative or generalizable, as it was mentioned earlier. This research is not considered gender-inclusive since all the participants were male and I was not able to find female border guards due to my personal contacts.

Moreover, certain limitations were encountered in relation to the secondary research conducted. First of all, even though there was a wide variety of sources available regarding the agency, its operations, its regulations, there was the issue of the credibility evaluation of the sources. Most articles recording the accusations against Frontex and its illegal activities were by NGOs and newspapers whose credibility was rather ambiguous for a dissertation paper, which led to a time-consuming process of evaluating their validity and finding more resources. Also, the agency's regulations are altered and updated frequently and, thus, certain sources found were not updated enough to accommodate the present study.

4. Analysis

This section aims to provide a comprehensive analysis of the fundamental rights protection mechanisms introduced by Frontex, with a particular focus on the implementation gap observed during the agency's operations. Specifically, the Fundamental Rights Training, Fundamental Rights Strategy and Consultative Forum on Fundamental Rights are going to be discussed. The implementation of these mechanisms will then be analyzed based on available data.

4.1. Enhancing Fundamental Rights Protection: Frontex's Training of Border Guards

As I have mentioned earlier, the main focus of this dissertation paper is the attention that Frontex pays to the fundamental rights of refugees and migrants and the mechanisms which the Agency initiated in order to protect them in an operational level. One of the most important

methods in order to guarantee the protection of the refugees' and migrants' fundamental rights during the Agency's operations is the training of border guards, more specifically the standing corps, on fundamental rights according to the international and European law.

The interview questions mainly focused on the border guards' main tasks, their professional background, Frontex's human rights training, their instructors and their recommendations in relation to the training. Regarding their main tasks, according to Frontex Press Team, border guards help "EU Member States in migration management, especially border patrolling and border checks, as well as fighting cross-border crime" in collaboration with the national authorities of the Member State. More specifically, the interviewees were mainly forced return and support officers, information officers and debriefers.

The second question of the interview was about the previous professional background of the border guards and if they had received a training regarding fundamental rights before. In relation to the professional backgrounds of the interviewees, it is evident that they came from diverse occupational positions. Most of the interviewees held previous roles as police officers in Greece, while border guard 2 was a member of the air force, and border guard 6 held a senior officer position. Border guard 2 received training on fundamental rights during his time in the Greek air force, border guard 4 was an instructor in a fundamental rights training delivered to the police force, and border guard 6 had previous education on fundamental rights as a senior officer.

Border guard 1 reports having undergone a six-month training program, which included a course on fundamental rights. The training program comprised 16 hours of lifelong learning, featuring videos, presentations, and documents, which were tested. He notes that the syllabus briefly introduced them to international and EU law conventions but mostly emphasized the Charter of Fundamental Rights and the Code of Conduct Curriculum during operational

activities. Additionally, Border guard 6 posits that border guards must understand that these principles are "be all-end all" at an operational level, with other responsibilities resting with national authorities. Border guard 2 specifies that, during their training, they examined case studies in a more practical setting, drew lessons from previous incidents and breaches of fundamental rights protection, and learned how to write reports regarding fundamental rights violations during operational activities or cases of non-adherence by colleagues. Lastly, Border guard 5 notes that after the basic training, they also attended seminars and further training on fundamental rights to maintain their knowledge. The interviewees expressed satisfaction with the training and emphasized the Agency's focus on fundamental rights.

According to the Frontex Press Team, "the courses are delivered by experienced staff from the Fundamental Rights Office in conjunction with other business entities and adjusted to the specific needs of the trainees attending the training, also based on training material developed. All the trainers have solid experience in fundamental rights and international law". The majority of the interviewees had difficulty in recalling the professions of their instructors. However, border guard 5 mentioned that their instructors were Frontex employees, members of the law enforcement of the national authorities or lawyers. Not all of them had working experience at the borders but the lawyers paid visits at the borders and they were aware of the conditions. The interviewees did not make any comment regarding their instructors or show any kind of dissatisfaction.

The fifth inquiry of the interview aimed to explore whether the interviewees believed that the training provided to them was sufficient for them to have a comprehensive understanding of the importance of protecting fundamental rights during operational activities. According to the responses, the interviewees seemed content with the training procedures followed and believed that it was adequate for them to grasp the essence of safeguarding the fundamental

rights of refugees and migrants. The Agency also offers ad hoc training, maintenance training, and use-of-force training. Border guard 5 also affirmed that their education is continuous since they are given maintenance training every six months, focusing on a more practical level, such as analyzing scenarios for an arrest. Border guard 3 expressed the opinion that the training on fundamental rights provided to them was sufficient on a theoretical level, but on a practical level, it may be different due to the border guards' lack of executive powers during operational activities. In such cases, the border guards should only intervene but not appear superior to the national authorities. Furthermore, some interviewees mentioned the important role of fundamental rights monitors and FRO who regularly visit the border and provide continuous consultation on fundamental rights issues.

The final question was if the border guards had any recommendations regarding the improvement of the border guards' fundamental rights training. Border guard 2 suggested that the Agency should further analyze the environment in which the border guards operate and customize the case studies to be more targeted. On the other hand, border guard 3 expressed that he tended to avoid attending webinars on fundamental rights since they repeated the same information, and therefore recommends that they should become mandatory. Additionally, he proposed that local coordinators should partake in the training to improve cooperation between them and the border guards. Border guard 4 noted that while the Agency is committed to protecting fundamental rights, it should invest more in "tailored training" to better cater to the recipients' needs. Finally, border guard 6 opined that the current training on fundamental rights was sufficient for him, but acknowledged that adjustments may need to be made if new data and requirements emerge.

Based on insights gleaned from interviews with border guards and the Frontex Press Team, this study discerns Frontex's emphasis on prioritizing the safeguarding and respect of

fundamental rights within operational border activities, underpinned by comprehensive training furnished to border guards. Nonetheless, the study underscores a divergence between theoretical principles and on-ground realities during border operations, primarily stemming from the absence of executive powers vested in Frontex border guards, thereby delegating responsibilities to national authorities. Consequently, enhanced collaboration between Frontex border guards and Member State officers becomes imperative to ensure adherence to appropriate procedures aligned with international and European legal frameworks, thereby fortifying fundamental rights protection.

4.2. Fundamental Rights Strategy and its Effectiveness in Operational Activities

The last updated form of the Fundamental Rights Strategy was advocated by the Fundamental Rights Officer on 25th January 2021 and accepted by the Management Board on 14th February 2021. The aim of this Strategy is to ensure “the protection of fundamental rights” during the activities of the Agency “related to European Integrated Border Management (EIBM), as provided for by Regulation (EU) 2019/1896” (FRONTEX, 2021, p.4).

Frontex (2021,p. 4) states that this Strategy aims to guarantee that the agency is functioning in accordance with “the EU Acquis and in particular the Charter and the case-law of the EU Court of Justice, as well as international fundamental rights standards and principles, especially the principle of non-refoulement”.It promises the agency’s “proactive and strict” agreement with the commitments imposed by “international law and the Union acquis on fundamental rights, as a shared responsibility of the agency and the Member States” (p. 5). Finally, it aims at creating and “further developing a fundamental rights culture within the EU border management and returns community” and growing “knowledge, skills and competences on fundamental rights”.

Moreover, this Strategy clarifies the duties and responsibilities of the Fundamental Rights Officer (FRO) and Fundamental Rights Monitors (FRMs). More specifically, the FRO works independently, examines if the agency adheres to the protection of fundamental rights, “reports directly to the Management Board” and is in collaboration with the Consultative Forum (p.15). Also, the FRO examines the data collected by the FRMs, manages SIRs “on alleged violations of fundamental rights and in the complaints mechanism”, pays visits “to operational areas” to consult “on compliance of the activities with FR and follow up on incidents of alleged violations”. Finally, the FRO examines the results of the agency’s operational activities in order to strengthen “the quality, coherence and effectiveness of future activities”.

Additionally, the Strategy refers to the “complaints mechanism for possible fundamental rights violations during any activity of the agency”. There, people can express their “complaint in accordance with Article 111 of Regulation (EU) 2019/1896”, if they feel that they have been violated. Also, “suspected breaches by statutory staff deployed” can be submitted in the complaints mechanism regarding “the rules on the use of force applicable under Annex V of Regulation (EU) 2019/1896”. Frontex or “the relevant MS” should examine the complaints and investigate further “with the relevant administrative or disciplinary measures”.

Nevertheless, the findings of the OLAF report reveal that the complaints mechanism was not operating effectively. More specifically, it is mentioned that the European Parliament’s Frontex Scrutiny Working Group (FSWG) came to the conclusion that “national and international human rights bodies and organizations” repeatedly informed the agency about “fundamental rights violations at the border in a number of Member States” but the Agency ignored these statements (OLAF, 2021, p. 10). Furthermore, the agency did not succeed in following the procedure and “follow-up” on the accusations of violations “promptly, vigilantly and effectively”. Thus, it failed in preventing these violations and in decreasing “the risk of

future fundamental rights violations”.

In relation to Fundamental Rights Officer (FRO), the Office has dictated irregularities in their functions. The OLAF Report has demonstrated that the FRO and the FRO Office did not have the appropriate “cooperation from the executive management and poor access to information” (p.39) This obstacle influenced the efficiency “of the performance of the FRO in monitoring the compliance with, and respect of, the fundamental rights in Frontex’s activities”. This intended to exclude the FRO from having valuable certain information.

Furthermore, the Office reported the accusations of the lack of reporting by Frontex-deployed officers regarding fundamental rights violations. According to the OLAF report, there is the suspicion that human rights violations “are not always reported to Frontex” as the deployed officers fear the consequences “in the host MS” (p.77). Furthermore, the report highlights the “the low number of SIRs” regarding fundamental rights violations (p.78). However, this low number does not mean that there are no violations but rather that the violations are not properly reported. It is mentioned the “current SIR system” is problematic and amendments must be implicated promptly. The sources used in the report prove that “violations were not reported through official channels as the Frontex-deployed staff feared retaliation by local Authorities, in this case Greek”.

4.3. Strengthening the Consultative Forum on Fundamental Rights: Enhancing Effectiveness and Institutional Role

The Regulation (EU) No 1168/2011 , Article 26a, introduced the establishment of the Consultative Forum (CF) which offers their knowledge on matters of fundamental rights to Frontex Management Board and Executive Director (Giannetto, 2019, p. 8). Then, the

Regulation (EU) 2019/1896 clarified that the CF “is not part of Frontex’s administrative and management structure and has only advisory functions” (Loschi and Slominski, 2022, p. 201). One of the most important changes brought by the 2019 Regulation is that the Agency must notify the Forum “of the follow-up with regard to its recommendations” (p.202).

According to Loschi and Slominski, 2022, p. 202), the CF started its full action in 2012 and since 2014, they had been paying visits to “the borders of the EU, where Frontex operates”. It has been working as a “fully independent body” and its participants must be granted “access to all information concerning the respect for fundamental rights”. More specifically, the CF members are “international organizations, EU agencies, and CSOs” which include Council of Europe, IOM, OSCE/ODIHR, UNHCR the FRA and EASO.

The main duties of the CF is to promote the establishment and improvement of “human rights–related documents such as Frontex’s Fundamental Rights Strategy and the Code of Conduct for the national border guards” (Giannetto, 2019, p.8). It is very important that the CF works with Frontex officials, is provided with “relevant information about border practices and has privileged access to important stakeholders inside and outside of the agency such as the FRO, the European Ombudsman or Members of the European Parliament (MEPs)” (Loschi and Slominski, 2022, p. 199). Also, CF can produce documents, such as annual reports, which could be published only with the permission of Frontex Management Board and Executive Director. Finally, CF works independently and its members work voluntarily.

As it was mentioned earlier, Frontex has been repeatedly criticized for its lack of accountability and the Forum belongs to the Agency in order to increase its accountability to the public. However, according to Loschi and Slominski (2022), the creation of the Consultative Forum “as an advisory body in the field of fundamental rights does not remedy Frontex’s lack of legal accountability” (Loschi and Slominski, 2022, p. 205). The reason why is because the

Forum does not have the authorization or the competency to control and examine “the fundamental rights compliance” during operational activities. Also, all the documents produced by the Forum, such as “annual reports and recommendations”, are not “legally-binding” which means that the Agency is not obligated to follow these “recommendations” (p. 206), which is not effective and contributes to the belief that the Agency is using these mechanisms for the protection of fundamental rights as a smoke screen.

On the other hand, there have been examples where “the work of the Forum” was used in order to contribute to the “legal accountability of the Agency” (p.206). More specifically, in December 2020, the European Court of Justice (ECJ) confirmed that Hungary (Case C-808/18 Commission v Hungary ECLI:EU:C:2020:1029) was conducting illegal “push-backs to Serbia” and adjudicated “Hungary’s asylum process and border practices” as not corresponding with EU law. In this case, the European Court of Justice found that Hungary violated EU law by not providing proper legal safeguards for asylum seekers, as required by EU directives (ECHR, 2020).The case highlighted the importance of ensuring access to effective remedies for asylum applicants and established that Hungary's practices did not meet EU legal standards. This example proves that the documentation produced by the Consultative Foun “can also be used in legal proceedings”, which can improve “the legal accountability of Frontex” (Loschi and Slominski, 2022, p. 207).

Furthermore, since the Consultative Forum has an advisory role in the agency, it needs the necessary resources in order to make the appropriate recommendations and fulfill its duties. However, some Forum members accused the agency of not offering them adequate “resources”, such as “the lack of their own secretariat”, and enough time in order to handle “the Forum’s workload”(Loschi and Slominski, 2022, p. 207). This insufficiency serves us an obstacle to the Forum’s goal and renders them unproductive. Consequently, the members believe that the agency should be more “proactive” and offer to the Forum the necessary data, especially “about

border operations” (p.211)

In conclusion, the Consultative Forum has a consultative role and it only completes “the role of the FRO” (p.212). Hence, it can not take the place of “the necessary oversight by stakeholders such as the European Parliament, national parliaments, national human rights institutions, civil society and the judiciary”. In order to offer its assistance to the agency, it needs the relevant resources. However, the Forum faces certain issues in this effort such as “limited access to internal documents, insufficient resources and the lack of any formal power with regard to fundamental rights violations”. Nevertheless, I believe that the Consultative Forum has the ability to enhance the agency’s concern of the issues raised regarding fundamental rights, with the necessary support from the agency.

5. Critical Assessment of Frontex’s Fundamental Rights Protection Mechanisms

Examining Frontex's introduced mechanisms aimed at safeguarding the fundamental rights of refugees and migrants reveals a noticeable gap between policy intent and implementation. Consequently, the research prompts the inquiry: Can the thorough adoption and execution of these mechanisms, leading to agency enhancement, adequately address migration challenges?

Even in the optimal execution of existing mechanisms, the effectiveness in preserving the rights of mobile individuals during border operations remains uncertain due to the intricate and adaptable nature of the issue. While Frontex must ensure the efficacy of these protective mechanisms to align with international and European law for border operations, the complexity of challenges faced by those at borders requires a comprehensive approach beyond any single

agency's scope. Although Frontex initially introduced mechanisms theoretically aligned with international and European law, primarily emphasizing refugee and migrant rights, reported rights violations raise concerns about their implementation. Even if these mechanisms were executed seamlessly, inherent complexities and constraints make prioritizing refugee and migrant rights arduous. Addressing these challenges necessitates a holistic migration approach encompassing comprehensive mechanisms' implementation and broader strategies like EU-Member State cooperation.

In conclusion, while implementing Frontex's existing mechanisms is imperative, it falls short of fully safeguarding refugees' rights during border operations. Attaining this goal demands a multi-pronged strategy addressing migration complexities, cooperation, and border authority actions, all underpinned by an unwavering commitment to fundamental rights within broader societal contexts. Lastly, evaluating existing mechanisms is pivotal for establishing new policies.

6. Contributions, Future Research, and Recommendations for Defending Basic Rights in Border Management

This study makes a significant scholarly contribution to the existing literature by conducting an in-depth examination of the efficacy of fundamental rights protection mechanisms implemented by Frontex. The findings of this study bring to light instances of reported violations and inconsistencies encountered during the practical implementation of these mechanisms, indicating their limited effectiveness in fulfilling their intended objectives. Moreover, the study enriches the ongoing scholarly discourse surrounding the efficacy of training programs, policies, and ethical standards within this domain. By shedding light on the division of responsibilities, issues of accountability, and the consequential ramifications for

safeguarding fundamental rights, this study offers valuable insights.

Frontex has to improve the efficiency of its reaction to violations of basic rights and its supervision procedures. For the purpose of preventing and addressing abuses of fundamental rights, the Agency should set up accountability procedures. Migrants and refugees should have easy access to complaint processes so they may report mistreatment without worrying about reprisal. Any reported infractions should be the subject of prompt, objective investigations. Moreover, it is advisable for the Agency to augment its executive powers, thereby enabling active participation in the decision-making processes related to border operations. By enhancing its authority and influence in decision-making, the Agency can play a more proactive role in ensuring the protection and promotion of fundamental rights during border operations.

The issue of whether Frontex possesses the requisite legal authority to undertake specific measures is intrinsically tied to EU law. Frontex's competencies are derived from EU regulations, notably Regulation (EU) 2016/1624, as enacted by the European Parliament and the Council. Consequently, Frontex is vested with the jurisdiction to execute distinct actions, albeit with the obligation to meticulously adhere to EU legal provisions and uphold human rights standards during the implementation of said measures.

In relation to avenues of further academic research, it would be advantageous to expand the present study by incorporating Member States and diverse case studies. This broader approach would provide a more comprehensive and holistic view of the subject matter. Moreover, it would be crucial to enhance the methodological robustness of the research by conducting interviews on the fundamental rights training provided to Frontex border guards, involving a higher number of participants to ensure greater representativeness. This would yield more reliable and nuanced conclusions regarding the effectiveness of such training in upholding fundamental rights standards.

7. Conclusion

Frontex is an EU agency responsible for border management and should prioritize protecting fundamental rights. The study examined the effectiveness of these fundamental rights protection mechanisms during Frontex border operations. More specifically, Frontex's Fundamental Rights Training reveals that while training prioritizes fundamental rights protection, inconsistencies exist in its practical implementation. Furthermore, the Fundamental Rights Strategy promotes compliance with EU and international law, but the mechanism seems to be ineffective since it oversees fundamental rights violations. Moreover, the Consultative Forum encourages dialogue between fundamental rights-oriented organizations and Frontex officials, but it lacks formal power.

The implementation of the aforementioned mechanisms is a crucial step towards ensuring the protection of fundamental rights, thereby fostering humane and respectful treatment of migrants and refugees. However, it is important to recognize that EU migration issues are multifaceted and cannot be resolved through the actions of a singular entity. While Frontex's commitment to protecting fundamental rights is of utmost importance, it represents only one aspect within a comprehensive approach required to effectively tackle migration challenges. The task of addressing violations of fundamental rights necessitates collaboration among various entities, including Member States and Frontex, despite potential obstacles arising from diverging personal interests.

It is crucial to emphasize that this paper aims not only to focus on Frontex as an isolated entity but also to shed light on the broader context of the European Union's role in safeguarding fundamental rights through the establishment of such an agency. The existence of an implementation gap in EU regulations, as manifested in the practices of Frontex, reveals a systemic issue of institutional bilingualism within the EU concerning the protection of fundamental rights for individuals on the move.

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Appendix 1

Interviews

Interview 1 with border guard (the interview was conducted on 15.11.2022)

Interview 2 with border guard (the interview was conducted on 15.11.2022)

Interview 3 with border guard (the interview was conducted on 16.11.2022)

Interview 4 with border guard (the interview was conducted on 17.11.2022)

Interview 5 with border guard (the interview was conducted on 06.12.2022)

Interview 6 with border guard (the interview was conducted on 23.12.2022)

Appendix 2

Interview Questions

Ελληνική Έκδοση Ερωτήσεις Συνεντεύξεων

1. Ποια είναι τα κύρια καθήκοντά σας ως συνοριοφύλακας στη FRONTEX;
2. Πριν από τη FRONTEX, ποιο ήταν το ιστορικό σας σε σχέση με τα ανθρώπινα δικαιώματα; Έχετε λάβει προηγουμένως κάποιου είδους εκπαίδευση σχετικά με την προστασία των ανθρωπίνων δικαιωμάτων;
3. Σύμφωνα με την επίσημη ιστοσελίδα της FRONTEX, κάθε συνοριοφύλακας λαμβάνει εξάμηνη εκπαίδευση η οποία συμπληρώνει την προηγούμενη επαγγελματική του κατάρτιση. Στο πλαίσιο αυτής της εξάμηνης κατάρτισης, παρακολουθήσατε μαθήματα σχετικά με την προστασία των ανθρωπίνων δικαιωμάτων και το δίκαιο της ΕΕ;
4. Ποια ήταν η ιδιότητα/επάγγελμα του ατόμου που παρέδωσε αυτά τα μαθήματα; Είχε εμπειρία στον τομέα των συνόρων;
5. Θεωρείτε ότι αυτή η εκπαίδευση για τα ανθρώπινα δικαιώματα ήταν αρκετή για να κατανοήσετε πλήρως τον τρόπο προστασίας των ανθρωπίνων δικαιωμάτων των μεταναστών και των προσφύγων κατά τη διάρκεια των συνοριακών επιχειρήσεων;
6. Έχετε συστάσεις σχετικά με το πώς θα μπορούσε ο οργανισμός να βελτιώσει την εκπαίδευση των συνοριοφυλάκων του στα ανθρώπινα δικαιώματα;

English Version Questions

1. Which are your main tasks as a border guard in FRONTEX?
2. Before FRONTEX, what was your background in relation to human rights? Have you received before any kind of training on the protection of human rights?
3. According to the official website of FRONTEX, every border guard receives a six-month training which complements their previous professional training. In this six-month training, did you attend courses related to the protection of human rights and EU law?
4. What was the status/profession of the person who delivered these courses? Did they have experience on the field?
5. Do you feel that this training on human rights was enough for you to fully comprehend how to protect the human rights of migrants and refugees during border operations?
6. Do you have any recommendations on how the agency could improve the training of its border guards on human rights