European disunity and the need for political leadership in migration management

Gil Thompson
Berlin Graduate School for Global and Transregional Studis (BGTS)

Summary

The Frontex decision to suspend its operations in Hungary is a symptom of a larger inability of the EU to act in a concerted, coherent fashion in the management of its external borders. The EU's attempts at managing push and pull factors of migration, as well as at externalising border controls have been ineffective and, at best, unethical. This brief discusses a series of steps that the EU could take to improve the implementation of the European border management and asylum system:

1. Improve reporting by Frontex officials of fundamental rights violations by member states

2. Tie fundamental rights enforcement, along with rule of law, to structural funds

3. Require member states to abide by refugee quotas

4. Work with third countries to ensure safe and timely returns

5. Formulate a common European policy regarding Turkey and Libya

However, due to the political nature of the current challenges, the brief concludes that politically adept leadership is a prerequisite to any successful policy. The EU's border agency Frontex and the European Asylum Support Office (EASO) and their related European Commission portfolios, need to be managed by people with proven political experience and a deep understanding of practical politics.

Introduction

The recent decision of Frontex to suspend its operations in Hungary is a symptom of a larger inability of the EU to act in a concerted, coherent fashion in the management of its external borders. Given its inability to find large-scale solutions, the EU has sharpened its focus on managing push factors (causes of emigration), which is largely ineffective, and managing pull factors (causes of immigration), which is ethically and legally problematic. It has also turned to what has been dubbed as the outsourcing of migration control, in which the EU incentivises its neighbours to prevent irregular crossings. This approach has been unable to function either effectively or ethically.

As a result, the EU appears to not have effective tools for managing its disparate border and asylum regimes. Since the refugee crisis of 2015-16, the European far-right has grown to the point that it can block significant cooperation. Given the issue's reduced salience since that peak, it is unlikely that a new political will to change this will emerge anytime soon, but it remains salient enough that emergent right-wing parties can block needed reform. If the past decade's crises, from the Eurozone to the Coronavirus, are any indicator, it is likely that the EU will continue to muddle along. Nevertheless, a few realistic policy changes could make a difference.

> *Since the refugee crisis of 2015-16, the European far-right has grown to the point that it can block significant cooperation*

I combine insights from my doctoral research with big-picture analysis to distil some recommendations for a more coherent border management and asylum system. In my PhD project, I study European socialisation among national officials deployed by Frontex and the European Asylum Support Office (EASO)

to the Lesvos migration hotspot in Greece. I have done extensive fieldwork and dozens of interviews with the people who work in the everyday aspects of European border and asylum management.[1]

This brief discusses a series of steps that the EU could take to improve the implementation of the European border management and asylum system: (1) improve reporting by Frontex officials of fundamental rights violations by member states; (2) tie fundamental rights enforcement, along with rule of law, to structural funds; (3) require member states to abide by refugee quotas; (4) work with third countries to ensure safe and timely returns; and (5) formulate a common European policy regarding Turkey and Libya. However, due to the political nature of the current challenges, my analysis shows that political leadership is even more important. Frontex and EASO, and their related European Commission portfolios, need to be managed by people with proven political experience and a deep understanding of practical politics.

The unravelling of border management cooperation

On 27 January 2021 the EU's border agency Frontex announced that it would suspend all activities in Hungary. The move comes following evidence of pushbacks of asylum seekers documented by the Hungarian Helsinki committee,[2] in spite of a December

---

[1] I introduce a new approach to analysing European socialisation. 'Agent-directed socialisation: an ethnographic study of European socialisation among Frontex and EASO officials deployed to the Lesvos migration hotspot', doctoral thesis, Freie Universität Berlin, forthcoming.

[2] See the Hungarian Helsinki Committee's ongoing tally of pushbacks since the CJEU ruling, which stands at 4,504 as of the time of this writing. https://threadreaderapp.com/thread/1354020620628074496.html

2020 ruling of the Court of Justice of the EU maintaining that such pushbacks are illegal, notwithstanding the Corona crisis. Frontex explained that, 'our common efforts to protect the E.U. external borders can only be successful if we ensure that our cooperation and activities are fully in line with E.U. laws'.[3]

> *Pushbacks violate the judicial principal of non-refoulement and have been frequently documented since the so-called refugee crisis*

As opposed to a legal return, which follows a legal framework, pushbacks describe an informal cross-border expulsion, whereby people who seek international protection are forced across the border. They violate the judicial principal of non-refoulement[4] and have been frequently documented since the so-called refugee crisis. The Border Violence Monitoring Network released in December 2020 a dossier of testimonies detailing the experiences of 12,654 people who have been pushed back, not received or received delayed assistance at sea or have been the victims of violence. The so-called Black Book documents violations by Croatia, Greece, Hungary, Italy and Slovenia as well as non-EU Balkan states.[5]

Violations on the part of member states have usually been met by the EU with relative impunity. However, pressure has increased since an investigation by The New York Times in August 2020 found evidence that pushbacks were orchestrated by Greek authorities[6] and another by Der Spiegel found that Frontex was complicit.[7] In November, the Frontex Management Board held an extraordinary meeting to discuss the allegations, deciding to investigate further and stating that, 'the Executive Director will suspend or terminate any activity, in whole or in part, if he considers that there are violations of fundamental rights or international protection obligations that are of a serious nature or are likely to persist'.[8]

> *The suspension of Frontex activities in Hungary are possibly a prelude to a broader unravelling of Frontex cooperation with member states*

The suspension of Frontex activities in Hungary are possibly a prelude to a broader unravelling of Frontex cooperation with member states. Given mounting pressure from civil society to review Frontex's mandate, especially in Croatia and Greece, activities in these countries might be suspended too. Frontex cooperation with member states runs the risk of becoming increasingly fraught, given pressure from the European Parliament,

---

[3] 'E.U. border agency pulls out of Hungary over rights abuses', *The New York Times*, 28 January 2021. https://www.nytimes.com/2021/01/27/world/europe/frontex-hungary-eu-asylum.html

[4] For a full treatment on the matter, see R. Mungianu, *Frontex and non-refoulement: the international responsibility of the EU*, Cambridge University Press 2016.

[5] Border Violence Monitoring Network, *The Black Book of Pushbacks*, H. Barker and M. Zajović (eds), The Left Group in the European Parliament, 2020. https://www.borderviolence.eu/launch-event-the-black-book-of-pushbacks/

[6] 'Taking hard line, Greece turns back migrants by abandoning them at sea', *The New York Times*, 14 August 2020. https://www.nytimes.com/2020/08/14/world/europe/greece-migrants-abandoning-sea.html

[7] 'EU border agency Frontex complicit in Greek refugee pushback campaign', *Der Spiegel*, 3 February 2021. https://www.spiegel.de/international/europe/eu-border-agency-frontex-complicit-in-greek-refugee-pushback-campaign-a-4b6cba29-35a3-4d8c-a49f-a12daad450d7

[8] European Commission, 'Extraordinary meeting of Frontex management board on the alleged push backs on 10 November 2020', Migration and Home Affairs News (blog), 11 November 2020. https://ec.europa.eu/home-affairs/news/extraordinary-meeting-frontex-management-board-alleged-push-backs-10-november-2020_en

Figure 1: Number of annual illegal crossings into EU along 5 major routes by year, 2009-2020
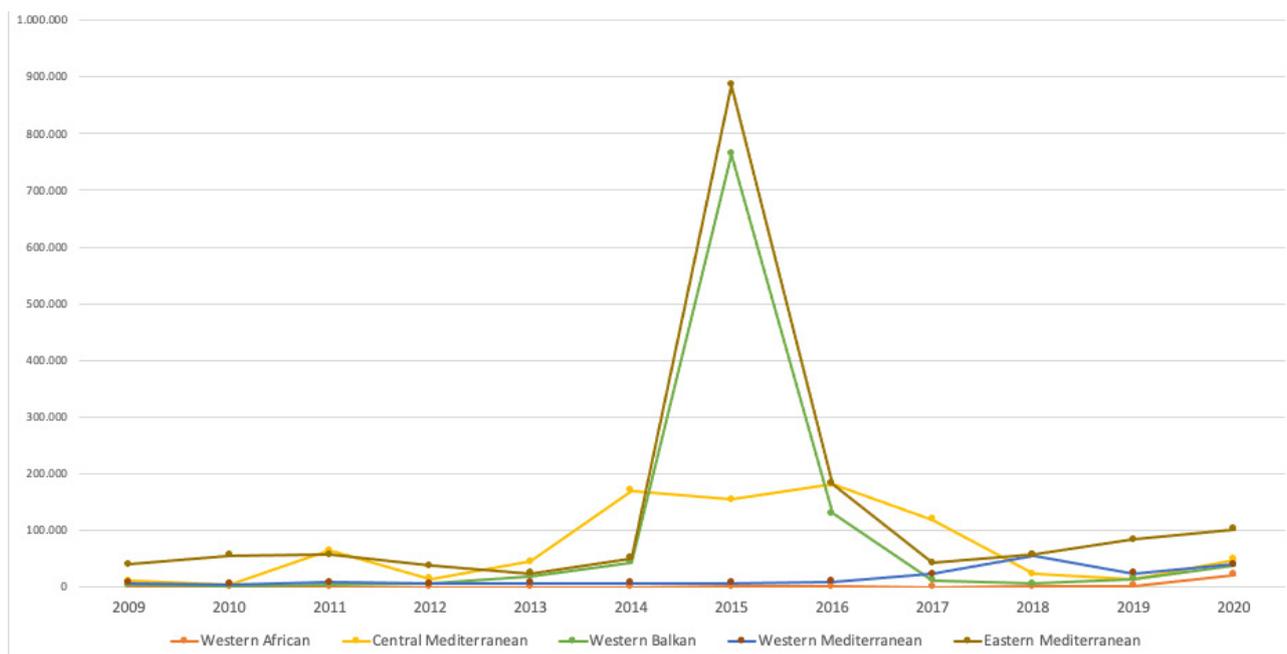
Source: Frontex, 'Monthly Detection of Illegal Border-Crossings Statistics Download', 5 January 2021.
https://frontex.europa.eu/along-eu-borders/migratory-map/
Note: The links are not regularly updated. Data used here was published on 5 January 2021 and includes data through November 2020.

an investigation by the EU's anti-fraud office (OLAF) and European Commissioner for Home Affairs Ylva Johansson distancing herself from the agency.[9]

The possibility of a partial unravelling of European cooperation in border management is reminiscent of problems with the Common European Asylum System (CEAS), which lost much of its lustre after challenges in the European Council and member state non-cooperation with EU directives, most notably, Hungarian resistance to refugee quota implementation. European border and asylum management face similar challenges,

deriving from the EU's inability to adhere to its laws, let alone to act in good faith and solidarity to address common challenges. I begin by considering migration and its place in European politics, showing that since the refugee crisis of 2015-16, the European far-right has grown to the point that it can block significant cooperation.

The rise of anti-immigration parties

European views of unauthorised migration and refugees are varied. The Eurobarometer survey from the summer of 2020 shows that immigration is the most important issue at the European level for 23 per cent of respondents

[9] 'EU migration chief urges Frontex to clarify pushback allegations', *Euronews*, 22 January 2021. https://www.euronews.com/2021/01/20/eu-migration-chief-urges-frontex-to-clarify-pushback-allegations

and at the national level 11 per cent.[10] These figures suggest that migration has lost much of its salience due to the COVID pandemic and related economic fallout. However, irregular crossings have not spiked again, as they did in 2015, returning to the pre-2014 historical norm (see Figure 1).

Nevertheless, anti-immigration far-right parties have been increasingly successful, most notably holding power in Hungary and Poland and entering the German (*AfD* in 2017), Portuguese (*Chega* in 2019) and Spanish (*Vox* in 2019) parliaments for the first times since these countries' dictatorships. They have also become coalition partners or supporters of governments in an increasing number of countries.[11] Finally, the far right has become increasingly entrenched in a host of national legislatures and the European Parliament.

Although Europeans (with important exceptions, including Greece, Hungary and Italy) generally see immigrants as a strength rather than a burden,[12] anti-immigrant sentiment remains sufficient for blocking meaningful action at the European Council and preventing the implementation of agreements that are reached.[13] This disunity has left Europe with mostly voluntary arrangements on the issue of asylum, most recently the New Pact on Migration and Asylum.

> *This disunity has left Europe with mostly voluntary arrangements on the issue of asylum, most recently the New Pact on Migration and Asylum*

The new pact represents an admission that 'the central issue of how asylum seekers are to be distributed within the EU can probably only be circumvented through voluntary coalitions'.[14] This 'à la carte' approach can be thought of as a system of 'asymmetric solidarity' that analysts are concerned is both unrealistic and possibly undermining of fundamental rights.[15]

The EU is caught in a vice between a strong-enough right wing that prevents united action on migration and a legal order which mandates the orderly processing of asylum applications. This has created an environment in which a coherent, effective and ethical European approach is politically impossible.

---

[10] European Commission, Latest Eurobarometer Survey (July-August): Economic situation is EU citizens' top concern in light of the coronavirus pandemic, 23 October 2020. https://ec.europa.eu/commission/presscorner/detail/en/IP_20_1975

[11] E. Harteveld, A. Kokkonen, J. Linde, and S. Dahlberg, 'A tough trade-off? The asymmetrical impact of populist radical right inclusion on satisfaction with democracy and government', *European Political Science Review* 13(1), pp. 113–33, 2021.

[12] A. Gonzalez-Barrera and P. Connor, 'Around the world, more say immigrants are a strength than a burden', Pew Research Center: Global Attitudes & Trends (blog), 14 March 2019. https://www.pewresearch.org/global/2019/03/14/around-the-world-more-say-immigrants-are-a-strength-than-a-burden/

[13] C. Morsut and B. I. Kruke, 'Crisis governance of the refugee and migrant influx into Europe in 2015: a tale of disintegration', *Journal of European Integration* 40(2), pp. 145–59, 2018.

[14] R. Bossong, 'EU border security in a time of pandemic: restoring the Schengen regime in the face of old conflicts and new requirements for public health', SWP Comment, June 2020. https://www.swp-berlin.org/en/publication/eu-border-security-in-a-time-of-pandemic/

[15] S. Carrera, 'Whose pact? The cognitive dimensions of the new EU Pact on Migration and Asylum', CEPS Policy Insights, September 2020. https://www.ceps.eu/download/publication/?id=30350&pdf=PI2020-22-New-EU-Pact-on-Migration-and-Asylum.pdf. L. Rasche and M. Welter-Franke, 'EU border procedures: clear, fair and fast? The "New Pact" in review', Policy Brief, Hertie School Jacques Delors Centre, 21 December 2020. https://www.delorscentre.eu/en/publications/detail/publication/eu-border-procedures-clear-fair-and-fast-the-new-pact-in-review

The EU's tools for managing migration

Given the lack of a political mandate for a properly functioning Common European Asylum System and what may be the coming disintegration of integrated European border management, other aspects of the EU approach to managing irregular migration become more important. These can be divided into attempts to reduce push and pull factors, a distinction often invoked by European institutions.

The least politically controversial claim made by the EU is that development policy can reduce poverty, which it sees as a push factor. This has led to a series of conferences, agreements and bilateral negotiations between the EU and African states, focusing on the specifics of managing migration itself to broader efforts on development policy. This approach began all the way back in 2000, following events in Ceuta and Melilla but became more consolidated with the von der Leyen Commission.[16] Relatedly, authorities see humanitarian assistance to asylum seekers in third countries as a means to reduce the incentive for crossings. The German Federal Foreign Office, for example, has argued that assistance will 'enable Turkey to provide refugees with humane living conditions, thus deterring them from continuing their dangerous journey'.[17] The literature on whether development policy increases or reduces emigration is however less clear.[18]

Attempts to reduce push factors have not been very effective, leading the EU and its member states to also consider pull factors. The most high-profile of these efforts has centred on increasing the speed and regularity of returns. Former European Commissioner for Home Affairs Dimitris Avramopoulos, explains that 'increasing the pace of returns from EU Member States to Turkey of those who have no right to remain in EU territory would also contribute to deterring departures from Turkey'.[19] A review of EU returns however raises serious ethical questions.[20]

> *Even though most asylum applications do not follow irregular entry, member states see these irregular crossings a publicly salient symbol of its inability to manage asylum more generally*

Despite the focus on both voluntary and forced returns, not many have been taking place. In its risk analysis report for 2020, Frontex states that less than half of return decisions lead to actual returns, with 138,860 returns taking place in 2019, a year which saw 715,000 applications for international protection.[21] Even though most asylum applications do not follow irregular entry, member states see these

---

[16] See S. Lavenex and R. Kunz, 'The migration–development nexus in EU external relations', *Journal of European Integration* 30(3), pp. 439–57, 2008.

[17] Federal Foreign Office, 'Displacement and Migration', Foreign & European Policy (blog), 31 October 2016. https://www.auswaertiges-amt.de/en/aussenpolitik/europa/migration-inneres-justiz/-/228758

[18] Panel data suggests governance aid reduces outflows while economic and social assistance actually increases them. See J. Gamso and F. Yuldashev, 'Targeted foreign aid and international migration: is development-promotion an effective immigration policy?', *International Studies Quarterly* 62(4), pp. 809–20, 2018.

[19] Parliamentary Questions, European Parliament, 18 December 2018. https://www.europarl.europa.eu/doceo/document/P-8-2018-005159-ASW_EN.html

[20] Heinrich Böll Stiftung, '"Get Lost!" European Return Policies in Practice', vol. 53, 2020.

[21] Frontex, Risk Analysis for 2020, 1218/2020. https://frontex.europa.eu/assets/Publications/Risk_Analysis/Risk_Analysis/Annual_Risk_Analysis_2020.pdf

irregular crossings a publicly salient symbol of its inability to manage asylum more generally.

The inability to prevent irregular crossings and conduct effective returns has led member states to process asylum seekers in harsh conditions as a mode of deterrence, even though authorities reject the characterisation. Relatedly, delayed assistance at sea can also be seen as deterrence, as the UN High Commissioner argued Italy was doing.[22] Regardless of how consciously this process has been undertaken, its unethical nature is only a small step from outright illegality of pushbacks. Altogether, these constitute a policy framework of the EU and its member states of reducing pull factors of migration by immiserating asylum seekers.

Outsourcing of European border controls

Because push and pull factors of irregular crossings are either difficult or (at best) unethical to manage, the EU and its member states have worked with its neighbours to manage flows. Such agreements have taken place with Turkey, Libya and Morocco, among others. By having third-country border forces prevent asylum seekers from leaving, they

This approach has been criticised for a long time as effectively outsourcing human rights violations

cannot present themselves upon entry into the EU. This approach has been criticised for a long time as effectively outsourcing human rights violations.

Most notable is the case of Libya, where Amnesty International describes a litany

of abuses, 'including unlawful killings; enforced disappearances; torture and other ill-treatment; rape and other sexual violence; arbitrary detention; and forced labour and exploitation at the hands of state and non-state actors in a climate of near-total impunity'.[23]

Beyond the clear ethical dimension, externalisation of border controls has also been generally ineffective

Beyond the clear ethical dimension, externalisation of border controls has also been generally ineffective. As Figure 1 demonstrates, despite increasing ties with third countries in the area of migration management, this set of policy has not had a discernible effect. Although tempting, externalisation cannot solve the EU's problems with irregular crossings and management of asylum seekers.

Disunity is the heart of the problem

There are no solutions that are ethical, effective and democratically legitimate to irregular migration. Managing push factors is mostly ineffective while managing pull factors is unethical, if not illegal. Externalisation of migration controls is oftentimes both. Theoretically, externalisation could be effective; however, the same disunity that makes managing borders and asylum difficult in the first place also makes applying pressure to third countries difficult.

In their approaches to Turkey and Libya, voices from Europe's capitals are just as discordant as they are regarding asylum. French President Emmanuel Macron sees the creation of Pax

[22] Office of the High Commissioner, Joint Communication from Special Procedures', 15 May 2019. https://www.avvenire.it/c/attualita/Documents/ONUdirittiViolati.pdf

[23] Amnesty International, 'Libya: new evidence shows refugees and migrants trapped in horrific cycle of abuses', News (blog), 24 September 2020. https://www.amnesty.org/en/latest/news/2020/09/libya-new-evidence-shows-refugees-and-migrants-trapped-in-horrific-cycle-of-abuses/

Mediterranea as providing new grounds for political cooperation over the Mediterranean and as crucial to halting Turkey's 'imperial fantasies'. Southern European states such as Italy, Spain and Malta seem to seek a balance between Pax Mediterranea and Turkey. For Eastern European and Baltic states, a smooth relationship with the long-standing NATO ally Turkey is important, while Germany is in favour of a dialogue-based approach to Ankara.[24]

In a similar vein, a Carnegie Europe analysis describes the EU 'as marginalized, impotent, and disunited in its approach to Libya'.[25] After providing policy recommendations trying to find a common EU stance, the analysis concedes that 'these ideas may sound like old-fashioned wishful thinking'.

> *A coherent EU could also manage a common asylum system and make sure that its member states are treating asylum seekers ethically and not conducting pushback operations*

A united European Union could force Turkey to prevent crossings along the Eastern Mediterranean route. It could also help build a functional Libyan state that can once again effectively manage the central Mediterranean route. However, such a coherent EU could also manage a common asylum system and make sure that its member states are treating asylum seekers ethically and not conducting pushback operations.

---

[24] S. Adar and I. Toygür, 'Turkey, the EU and the Eastern Mediterranean crisis: militarization of foreign policy and power rivalry', SWP Comment, December 2020. https://www.swp-berlin.org/en/publication/turkey-the-eu-and-the-eastern-mediterranean-crisis/

[25] M. Pierini, 'Libya is a European emergency', Carnegie Europe, Strategic Europe blog, 2 July 2020. https://carnegieeurope.eu/strategiceurope/?fa=82240

The need for political leadership

Based on the above analysis, the EU could pursue a series of practical policies to improve the implementation of its border management and common asylum system:

1. Tie fundamental rights enforcement, along with rule of law, to structural funds.
2. Improve reporting by Frontex officials of fundamental rights violations by member states.
3. Require member states to abide by refugee quotas.
4. Formulate a common European policy regarding Turkey and Libya.
5. Work with third countries to ensure safe and timely returns.

Beyond specific policy actions, however, European policy makers should accept the political nature of the challenges they face. There are of course significant technocratic and legal aspects to managing borders and asylum. However, politics have been the fundamental stumbling block, whether this means getting member states on board or keeping on good terms with the European Parliament, civil society and the press. Political skills are required, whether this means forging a consensus among national leaders, or building relationships with opinion makers across Europe. Especially for Frontex, its reputation has been significantly damaged by being overly deferential to member states.

Both Frontex and EASO, and their related Commission portfolios, need to be managed by people with proven political experience. Commissioner for Values and Transparency Věra Jourová, Commissioner for Competition Margrethe Vestager and Ombudsman Emily O'Reilly are all notable for their well-publicised successes. None of them are career civil servants, unlike the heads of Frontex and EASO. Jourová and Vestager

were popular politicians and O'Reilly was a successful journalist – all people with a deep understanding of politics. By putting people in charge who understand the politics behind the problem, the EU has a much better chance at having workable borders and asylum regimes.

> *By putting people in charge who understand the politics behind the problem, the EU has a much better chance at having workable borders and asylum regimes*

The European Commission would do well to acknowledge the need for political talent and put in positions of authority either successful politicians or leaders who have demonstrated an understanding of practical politics in a related field. So long as Europe does not have the leadership it needs to manage its borders and asylum systems, the suffering of asylum seekers throughout Europe and its neighbourhood will remain on its conscience.

***Gil Thompson** is PLATO PhD researcher and doctoral candidate in political science at the Berlin Graduate School for Global and Transregional Studies (BGTS), and part of the DFG-funded SCRIPTS cluster of excellence. He is based at The Hertie School and was a visiting fellow at CEPS and University of Cambridge during his PhD. He is also affiliated with the Jacques Delors Centre in Berlin and the Cambridge Centre for the Study of Global Human Movement. This brief is based on his doctoral research, which is part of the EU MSCA-funded doctoral network PLATO.*

UiO ⋮ **ARENA** Centre for European Studies
University of Oslo

UNIVERSITY OF CAMBRIDGE

SciencesPo

SCRIPTS
CLUSTER OF EXCELLENCE
BGTS Graduate School

JAGIELLONIAN UNIVERSITY IN KRAKÓW

UNIVERSITY OF TWENTE.

IHS INSTITUT FÜR HÖHERE STUDIEN
INSTITUTE FOR ADVANCED STUDIES
Vienna

Universiteit Antwerpen

SOÚ
Institute of Sociology AS CR