RESEARCH ARTICLE

# Frontex goes global: A two-level experimentalist governance analysis of Frontex's international action and its role within the externalisation of EU borders

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**Abstract**

The European Border and Coast Guard Agency (Frontex) has progressively expanded its international footprint by collaborating with non-European Union (EU) partners to enhance the management and security of the EU's external borders. This article examines the development of Frontex's external relations through a two-level experimentalist governance lens and considers its impact on the EU's externalisation policy. The article contends that Frontex has enhanced its international profile in a context where EU policy actors' allocated goals have remained vague. The agency has had considerable autonomy in implementing these goals and has actively broadened its operational scope. The accountability dimension of Frontex's external relations, however, remains an important concern. To address this challenge, the article advocates greater transparency and disclosure, along with increased parliamentary and public oversight of Frontex.

**KEYWORDS**

autonomy, experimentalist governance, externalisation of border controls, Frontex

## INTRODUCTION

Since its inception in 2004, the European Border and Coast Guard Agency (Frontex) has experienced significant growth in terms of its budget, staff, and mandate, a growth trajectory unparalleled by other EU agencies. Despite attracting considerable scholarly attention, much

of the existing literature on Frontex has focused on the politics behind its creation and its operational activities, including its involvement in controversial pushback practices (Fink, 2020; Horii, 2015; Leonard, 2009; Leonard & Kaunert, 2022; Pollak & Slominski, 2009). Primarily generated by legal, border and critical security scholars (Coman-Kund, 2019; Fink, 2012; Letourneux, 2022; Marin, 2020; Martina, 2023; Perkins and Rumford, 2013), the literature remains, however, rather limited where Frontex's external relations are concerned. This gap is problematic given the increasing importance of the agency's growing role and international cooperation within EU migration and border policy. As such, the aim of this article is twofold: it wishes to contribute to the empirical knowledge of Frontex's international actions for risk analysis and border controls purposes, as well as to contribute to the theorising of the external dimensions of EU border controls. Specifically, this article seeks to answer how Frontex's external relations have impacted the agency's autonomy and the externalisation of EU border management.

In addressing the primary inquiry of this article, the authors embrace and advance an experimentalist governance approach. Experimentalist governance is an alternative to more traditional approaches in the study of EU bodies, emphasising the significance of lower-level units' autonomy, deliberative processes, flexibility, and decentralised problem-solving (Sabel & Zeitlin, 2010). In EU border management, Frontex has been seen as an instrument embodying experimentalism, particularly in the absence of exclusive EU competence and policy leverage instruments (Lavenex, 2015; Pollak & Slominski, 2009). On this basis, this article introduces a novel viewpoint, suggesting the external aspect of Frontex can usefully be conceived as a two-level experimentation: at the upper level, EU policymakers and Member States have a variety of loosely defined goals regarding border control externalisation, requiring them to learn about the problems they are addressing and the solutions they are seeking through problem-solving. At the lower-unit level, Frontex strives to maximise its autonomy and operational scope, thus defending its policy turf. Although the typical experimentalist governance analyses have captured this two-level structure, the bottom-up implications of lower-level units' experimentations, as well as the interplay between the two levels' experimentations, are not always appreciated. The two-level experimentalist governance analysis aims precisely at bridging this gap and at casting light upon the external dimension of Frontex and, by extension, EU border controls.

To operationalise the two-level analysis, the article focuses on the case study of Frontex's cooperation with the Western Balkan and African partners from 2009 to 2023. Methodologically, the article relies on discourse analysis (Neumann, 2008) of official documents published by various EU institutions and bodies, supplemented by semistructured interviews with seven officials working in the European Commission, the European Parliament, and Frontex, conducted between September 2021 and February 2022. The article begins by discussing how experimentalist governance can help us to understand EU policy actors' experimentation with EU border governance at the higher-unit level. The following sections connect the theoretical and empirical discussion to the lower-level unit's experimentation by examining the Frontex's extraterritorial intelligence networks, capacity-building projects, and joint operations. The final section of this article examines the challenges that experimentalism entails, focusing especially on accountability deficits, transparency and institutional imbalance.

## THE EVOLUTION OF FRONTEX AND EU POLICY ACTORS—EXPERIMENTALISM AT THE HIGHER-UNIT LEVEL

The politics of delegation in the EU is a complex process, involving intricate negotiations and compromises between Member States and Union bodies. As such, the principal-agent model's reductionism appears inadequate to explain the EU's sophisticated institutional landscape

(Delreux & Adriaensen, 2017). This is particularly evident in the case of Frontex, whose mandate and origin have been the subject of much debate among policy actors. The agency is ensconced within a hierarchical system of governance wherein Member States, the European Commission, and the European Parliament exercise varying degrees and forms of ex ante and ex post controls (Fink, 2020; Zhong & Carrapico, 2023). Meanwhile, over the past two decades multiple stakeholders have been upgrading Frontex's mandate either collectively through legislation or unilaterally via service agreements (Horii, 2015; Sarantaki, 2023). Given the ambiguous and evolutionary nature of Frontex's mandate, Pollak and Slominski (2009) argue that the experimentalist governance approach provides a more suitable framework for understanding the empowerment of Frontex. The agency's evolving mandate and international cooperation practices have been shaped by both top-down experimentation by Member States and supranational institutions in response to fluctuating operational challenges, and by EU border management's changing needs (Lavenex, 2015).

## Empowerment through experimentation

The delegation of powers to decentralised agencies can have positive effects on policy-making and implementation, as it enables the concentration of specialised knowledge stemming from a nonpolitical body that is closer to problems on the ground, as well as the provision of professional advice to policymakers (Chamon, 2016; Keleman, 2002; Trondal & Peters, 2013). In his seminal work, Majone (2001) distinguishes between two modes of principal-agent delegation in the EU's governance structure: agency delegation and fiduciary delegation. Agency delegation primarily aims at minimising transaction costs in decision-making and improving the quality of policy output. On the other hand, fiduciary delegation is employed by political principals primarily to forge credible commitments for long-term cooperation, thereby easing short-term electoral pressures.

With regard to Frontex, however, the empowerment of the agency does not fall into either of these two modes. Ekelund (2014) insightfully suggests that to understand Frontex's establishment, one must venture beyond rational choice institutionalist explanations and consider the broader tapestry of social dynamics and historical context. The emergence of Frontex in EU border management was directly related to concerns that the elimination of internal border controls would provide a fertile ground for cross-border crime, thereby posing significant challenges to law enforcement and transnational cooperation (Leonard, 2009; Neal, 2009; Wolff & Schout, 2013). The 9/11 attacks, as well as the Madrid and London attacks, served as catalysts for the securitisation of migration, highlighting the importance of transnational coordination on border controls (Boswell, 2007).

Simultaneously, however, more concerns should be given to stakeholders' political manoeuvres and the ongoing dynamics of negotiation and policy experimentation. It is pivotal to contextualise Frontex amidst the expansive canvas of myriad institutional, operational, and technical instruments that the EU has been meticulously architecting for effective border controls. Frontex's inception is linked to the deficiencies of the Practitioners Common Unit (PCU),[1] and during this transformative phase, Frontex emerged as a site of contestation over sovereign capacity and EU competence (Horii, 2015; Neal, 2009). Frontex's initial legal bill thus reflected a compromise between three competing visions pertinent among stakeholders: (1) a more federal vision, endorsed by the European Commission which saw in Frontex the potential to develop a supranational agency with executive powers to enforce EU border

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[1]The PCU was developed from the Strategic Committee for Immigration, Frontiers and Asylum in 2002. It was composed of Member States' heads of border control, to coordinate the measures contained in the plan.

control policies; (2) a more intergovernmental vision, supported by many Member States that emphasised the need to maintain control over national borders while collaborating with other EU countries; and (3) a more humanitarian vision, supported by the European Parliament that emphasised the need for a more human rights-cantered approach to border control and migration management (Leonard, 2009; Horii, 2015). Given the multipolar power distribution within the EU, disagreements have created policy uncertainly and consistently shaped Frontex over the years, leaving the agency in a situation where it is frequently confronted with conflicting and even incompatible demands from different stakeholders (Perkowski, 2019).

The existing literature accentuates the hybrid nature of EU agencies, which occupy a liminal state of 'betwixt and between' (Curtin, 2009) and function as 'hierarchy beaters' (Everson, 1995). Frontex, in particular, has demonstrated its hybridity through its relationships with and reliance on both EU institutions and Member States, as well as its multifaceted tasks (Perkowski, 2019; Rijpma, 2012). The agency has been designed to operate under a mix of principal-agent and peer-review accountability mechanisms. In terms of the principal-agent accountability, oversight is exerted predominantly by Member States and the European Commission through the Management Board. In contrast, the peer-review accountability casts a wider net. The authors suggest that the 'peers' can be identified based on two criteria. First, partnership, referring to entities such as the European Union Agency for Fundamental Rights, the European Union Agency for Asylum (EUAA), and the International Organisation for Migration that work in tandem with Frontex, contributing to its operations and risk analyses. Second, specific interest in Frontex activities, with a special focus on fundamental rights violations. This peer-review engagement might arise from formal requests by authorities, such as the European Ombudsman and the European Anti-Fraud Office.

Given the vastly heterogeneous interests among a range of stakeholders and the absence of legal clarity, Frontex's operational discretion becomes not just necessary but instrumental. It is this institutional feature that enables Frontex, along with multiple principals and peers, to explore, define, and refine the goals and means of border management. In this regard, the experimentalist governance approach emerges as a fitting analytical framework to examine the empowerment of Frontex and its international cooperation. While the principal-agent model and multilevel governance theory may also yield insights into the outcomes of delegation, an experimentalist governance approach can better address the discretionary and arbitrary aspects within the 'agencified' governance architecture (Carrapiço & Trauner, 2013; Lavenex, 2015; Sabel & Zeitlin, 2008).

## Frontex's international mandate—An incomplete contract

While Frontex is primarily competent to exercise its tasks within the territory of the EU, international cooperation has been an integral part of the agency's functions from the outset. Frontex's founding legal framework—Council Regulation (EC) 2004/2007—contains a vague provision in Article 14, which states that Frontex shall facilitate the operational cooperation between Member States and third countries, or cooperate directly with the authorities of third countries competent in matters covered by the Regulation, in the framework of working arrangements concluded with these authorities. Article 2 of the Regulation enumerates six tasks that Frontex is charged with performing, three of which can be associated with an external dimension, namely the conducting of risk analyses, the development of research relevant to border management, and organising joint return operations. Nevertheless, the Regulation neglects to specify what procedures and instruments its agency shall apply in the cooperation with third countries, enabling EU policymakers to adopt an experimentalist approach in the development of the EU border agency (Coman-Kund, 2019; Fink, 2012).

Council Regulation (EC) 2004/2007 depicted Frontex's international cooperation in a manner that closely mirrors the legislative initiative of the European Commission. Member States and the Council abstained from making significant modifications to the Commission's initial proposal. Under the Consultation procedure, the European Parliament (2003) recommended that Frontex avoid participating in return operations or delivering training in this specific area. However, this recommendation did not ultimately influence the legislation outcome.

Interestingly, following the application of the Ordinary legislative procedure to border controls, the European Parliament reduced its resistance to Frontex's engagement in return operations. This change can be attributed not only to a continued dominance of the Council despite the communitarisation of competences for the management of the external borders (Trauner & Ripoll Servent, 2016), but also to the Parliament's view of Frontex operations, at the time, as being limited. The agency's officials were endowed with restricted operational powers, primarily centred around operational support and collaboration. Consequently, Frontex's involvement in returns, which commenced in 2006, was not perceived as presenting a significant risk of human rights violations (European Parliament, 2011). The shift in the European Parliament's stance indicates that the empowerment of Frontex has been a process of learning and adaptation. The early lack of knowledge and consensus gave rise to a set of loosely formulated framework goals and guidelines. These characteristics are consistent with the hallmarks of experimentalist governance and call into question the principal–agent relationships between actors at the two levels.

The experimentalist nature of Frontex's external relations was given new impetus by the Court's decision in Case 363/14 Parliament v Council. The Court of Justice upheld the constitutionality of EU agencies' international actions, conditional to it being considered necessary for the performance of the mandate entrusted by the EU's colegislatures and it taking place within the framework of EU foreign policy (Coman-Kund, 2019). This meant that while Frontex was primarily established to secure the proper implementation of the EU acquis internally, the agency could cooperate with non-EU countries and international organisations if such cooperation was considered useful and necessary to perform the agency's domestic mandate. Notably, while the Court of Justice corroborated the legitimacy of Frontex's established international cooperation, it refrained from clarifying how the usefulness and necessity of international cooperation practices should be interpreted, and to identify who should make such decisions. This lack of clear guidelines and decision-making process resulted in Frontex being given considerable autonomy in its cooperation with third parties.

Notably, despite EU stakeholders not always seeing eye-to-eye as to Frontex's mandate, the Commission becomes more visible in Frontex's international actions throughout the subsequent revisions of the founding acts: Article 14(8) of Regulation (EU) No 1168/2011 stipulated that the conclusion of a working arrangement by Frontex needed to be subject to receiving a prior opinion from the Commission. Regulation (EU) No 2016/1624 then specified that those draft working arrangements required the Commission's prior approval. More recently, Regulation (EU) No 2019/1896 clarified that the model working arrangements and the model status agreements between Frontex and third countries needed to be drawn up by the Commission itself to frame Frontex's cooperation with third countries.[2] This same regulation (Article 76) also detailed the role of the Commission with regard to Frontex's direct

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[2]Working arrangements are formalised instruments of cooperation between Frontex and the third countries concerned, primarily of a technical nature. These arrangements shall specifically address issues within Frontex's mandate and be crafted in accordance with the relevant provisions of the Treaty on the Functioning of the European Union (TFEU). Status agreements are international agreements that the EU concludes under the auspices of article 218 TFEU. These agreements, which create legally binding obligations, delineate the scope of operations and detail the tasks and powers of Frontex team members. They also establish the legal framework for Frontex team members, particularly concerning their duties, immunities, and privileges.

cooperation with third countries, especially referring that the agency was required to notify the Commission of any operational plan with, and decision to deploy liaison officers to third countries.

Appointing one stakeholder with a more important steering role is a typical solution to mitigating the challenges posed by multiple principal-agent problems, which both principals and agents face when they must address diverse and even competing interests of multiple actors under joint policy delivery (Voorn et al., 2019). A European Commission staff member suggests that the Commission is more aptly positioned than the EU's colegislators and Member States to guide Frontex's external relations (Interview, European Commission Policy Officer A, 2021). This view is based on the argument that the Commission's steer is, not only politically permissible, but also cost-efficient. Since the launch of the 2011 Global Approach to Migration and Mobility, the European Commission has been keen to make EU border controls and migration management instruments more consistent. In June 2016, for instance, the European Commission proposed to enhance the external dimension of border controls through the establishment of a partnership framework with third countries, which has been translated into formal compacts with migrants' countries of origin and transit being prioritised. The emphasis on policy coherence and solidarity is understood to give the Commission enhanced competence over Frontex's external dimension.

Member States, on the other hand, have a more limited involvement in Frontex's international cooperation practices, except for those directly related to the return of migrants who are deemed 'irregular' (Interview, Frontex Official C, 2022). Although Member States jointly control the functions of Frontex through the Management Board, they are further removed from the operational aspects of Frontex's external relations. Member States representatives have rarely raised objections to Frontex's operational plan and working arrangements with third countries (Interview, Frontex Official C, 2022). In addition, their proposed policy goals have also been characterised by limited coherence, which renders the task of following their lead as principals rather tricky (Interview, Frontex Official C, 2022). Where the European Parliament is concerned, its oversight of Frontex's external relations has faced numerous difficulties. While it has promoted its monitoring role through the establishment of the Frontex Scrutiny Group, the European Parliament largely relies on civil society organisations to gather information about Frontex's operational activities. As a result, it often struggles with collecting such data, as is the case for instance of the agency's illegal pushbacks at EU land and maritime borders (Interview, Member of the European Parliament A, 2021).

However, although the European Commission has been appointed as the primary stakeholder responsible for steering Frontex's external relations, other stakeholders are not formally excluded from the accountability dashboard, and Frontex retains substantial autonomy in its international actions. This status quo has given rise to a two-level experimentation within the external dimension of border controls, allowing both Frontex and its political principals to explore new forms of international cooperation and to modify what is still an incomplete contract, thus increasing the overall efficiency of the governance system.

# THE EXPANSION OF FRONTEX'S EXTERNAL RELATIONS—EXPERIMENTALISM AT THE LOWER-UNIT LEVEL

This empirical section focuses on the three main strategies employed by Frontex to achieve its policy goals, as well as greater autonomy: (1) increased information exchange with third countries; (2) investment in capacity building for third countries; and (3) expanded joint operations taking place in third countries. The section is structured as follows: we firstly trace

back how Frontex has broadened its sources of information by making use of third country partners' databases. Given that all Frontex activities are risk-analysis driven, we argue that information processing and exchange, including with countries of origin and transit, have become core components of Frontex's international actions. We then point to capacity-building activities and joint operations taking place in non-EU countries and illustrate how international cooperation practices enable the agency to promote its international profile and shape the external dimension of EU border controls.

## Increased information sharing between Frontex and third countries

Frontex activities are developed on the basis of risk analysis that calculates potential risks related to so-called 'irregular' migration and cross-border crime along the EU's external border (Paul, 2018). Frontex's added value and legitimacy largely depend on the information it obtains and the contribution its analysis reports can offer (Zhong & Carrapico, 2023). As national competent authorities continue to exercise border-related tasks in parallel with Frontex and have direct access to information, Frontex actively seeks better quality information to deliver value-added risk analysis products. To this end, the agency set up the Frontex Risk Analysis Network (FRAN) in 2007 and the Joint Operations Reporting Application (JORA) in 2011, both of which are crafted to receive, analyse and disseminate intelligence from a wealth of sources. In tandem with these initiatives, information sharing have been embedded into all working arrangements with third countries.

On the basis of Council Regulation (EC) No 2007/2004, Frontex concluded working arrangements with the competent authorities of Serbia, Macedonia, Montenegro, Bosnia and Herzegovina, and Albania in 2009. All these agreements allowed for the exchange of information related to the threat of what is perceived as 'irregular' migration. Building on these early agreements, Frontex put forward a proposal to establish the Western Balkans Risk Analysis Network RAN later that year, with the objective to harmonise data collection and analysis methods to ensure the smooth operation of information exchange and effective risk analysis (Frontex, 2010). To exchange information between Western Balkans RAN countries and Frontex, the latter together with the European Commission set up a secure Internet platform, through which Frontex collects monthly statistical data from the Western Balkan countries, including on so-called 'illegal' border crossings, smugglers, false documents, 'illegal' stays, refusals of entry, and asylum applications (Frontex, 2018b). In line with the updated Common Integrated Risk Analysis Model, Frontex delivers risk analysis reports quarterly to EU policymakers. When emerging risks are identified (e.g., the Taliban's insurgent offensive in 2021), Frontex also provides ad hoc briefings to the Commission and the Council, keeping policymakers up-to-date and tailoring information to specific needs and responding to new and rapidly-evolving issues. Interview, European Commission Policy Officer B (2021) believes that Frontex's risk analysis has become an indispensable tool for improving prefrontier situational awareness, enabling early detection of movements of concern.

Following the success of the Western Balkans RAN, Frontex successively developed the Eastern European Borders Risk Analysis Network, the Turkey-Frontex Risk Analysis Network and the Africa-Frontex Intelligence Community (AFIC). Among the four regional intelligence-sharing communities, the authors would like to focus on AFIC as it presents the peculiarity that, via this network, Frontex engages in cooperation with a range of non-neighbouring countries outside the framework of working arrangements. When AFIC was set up in 2010, it was based on the Council Regulation (EC) No 2007/2004s stipulation that Frontex shall cooperate with the competent authorities of third countries within the framework of working arrangements. This legal gap was not bridged until Regulation (EU) 2016/1624 came into force. At the time of writing (October 2023), Frontex had concluded working

arrangements with three African countries: Cape Verde, Nigeria and the Republic of Guinea (currently suspended). These agreements allow the agency to exchange information, with the competent authorities of African partners, that relates to the evolution of migratory routes and operational plans in the context of what it considers to be the fight against cross-border crime. In addition to these three countries, Frontex has included around 30 African countries in the AFIC framework through a series of tailor-made, informal, and undisclosed agreements focusing on regular knowledge and intelligence sharing in the field of border security and migration.

Frontex dramatically expanded its portfolio and geographical focus through AFIC. The project was launched in line with Frontex's own needs and presents a different but compatible instrument to implement the EU's externalisation policy. During AFIC's initial 5 years, the European Commission and Member States were largely absent from the events organised by Frontex. It was not until 2015 that AFIC gained more visibility outside of its immediate members by sharing its knowledge with EU stakeholders, such as the European Commission and the European External Action Service (Frontex, 2016). In the context of the 2015 migration crisis, Frontex started issuing monthly AFIC reports, based on regularly collected strategic and technical information from AFIC participants. The 2017 AFIC Joint Report indicates the basic principles of the network, including its 'informal nature, expert-level participation, flexibility, cooperation based on mutual benefits and trust among participants' (Frontex, 2018a, p. 11). It also acknowledges that AFIC has now reached a 'certain level of maturity', as it has the 'capacity to generate analysis and knowledge, build trust among its partners, expand geographically and extend its portfolio' (Frontex, 2018a).

To further support its activities in the Sahel region and collect information on so-called 'irregular' migration and cross-border crime, Frontex opened a risk analysis cell (RAC) in Niamey (Niger), which constitutes a crucial transit hub for migrants on their way to the Libyan coast (Marin, 2020). The RAC collects statistical data on migration flows and cross-border crime, develops risk analysis, and supports local authorities in setting up adequate responses to new migratory routes. The RAC in Niamey has now been incorporated into Frontex's dense African intelligence network and become the template for seven other RACs in the capitals of Ghana, Gambia, Senegal, Nigeria, Ivory Coast, Togo and Mauritania. The locations of these RACs underline that AFIC's raison d'être is to achieve situational awareness and support the reaction capability in the prefrontier area. With the 10 RACs now operational, Frontex is presently upgrading its AFIC Risk Analysis Unit, which will serve as a dedicated information-sharing platform for the competent authorities of African countries, the RACs, and Frontex (Frontex, 2022). The Unit, in conjunction with the on-site RACs, will provide Frontex with an extensive and sophisticated intelligence network on migratory flows, cementing the agency's position as a highly credible and knowledge-based actor on the EU stage (Interview, Frontex Official A, 2021).

However, it is important to note that although Frontex has received funding support for the RACs from the Commission, the latter is able to access the same information through its own channels, including through several projects under the EU Trust Fund for Africa and the European Union Capacity Building Mission in Niger (EUCAP Sahel Niger). In May 2017, for instance, the European Commission launched a Joint Information Platform on Alternative Routes in close cooperation with the Government of Niger, EU Member States, the International Organisation for Migration, and Frontex (European Commission, 2017). The platform aims at facilitating information exchange on what it perceives as 'irregular' border crossings through Niger and at promoting safe and legal migration alternatives. Moreover, the Commission has reinforced its presence in the region with the deployment of migration liaison officers and an earlier reinforcement of the EU presence in Agadez through EUCAP Sahel Niger.

This indicates that the European Commission has not only provided Frontex with room for policy experimentation, but also possesses its own range of policy instruments. Frontex is, therefore, compelled to compete with other experimental policy schemes to prove its effectiveness. The potential risk of competition for resources and of exerting oversight and political control may lead to a fragmentation of power, rather than to a hierarchical relationship between the Commission and Frontex. Meanwhile, despite Frontex's information collection efforts not being initially considered as essential, the agency began to define clearer headline goals and to engage third parties in achieving them. Frontex's considerable autonomy and experimental efforts mean that Member States and the Commission are not the only drivers of border control externalisation, and that the agency has been elevated to a relevant actor in the shaping of external dimension of border security policies.

## Capacity building in third countries for data collection purposes

Frontex relies heavily on the FRAN, the Western Balkan RAN, the Eastern European Borders RAN, the Turkey-Frontex RAN, and the AFIC for collecting information, forecasting asylum claims, and planning control measures. However, due to the frequent occurrence of failed administrations and violent conflict in many countries of origin and transit, Frontex has acknowledged significant difficulties in obtaining timely and comprehensive data, and pointed out the limitations of these informal intelligence networks (Interview, Frontex Official C, 2021). As a result, the agency has increasingly focused on capacity building in external stakeholders to address these issues.

The majority of Frontex's operations in the Western Balkans and the Eastern Neighbourhood have been conducted within the frameworks of the Instrument for Pre-accession Assistance and the EU4 Border Security Project. Both of these projects are funded by the European Commission for the enlargement countries and neighbouring nations. Under these frameworks, Frontex engages in close collaboration with the EUAA and with the European Union Agency for Law Enforcement Cooperation (Europol). Since September 2016, these three agencies have jointly led several regional support projects, which have been focused on the introduction and sharing of EU standards and best practices pertaining to border and migration management in the Western Balkans and Turkey. This approach aims to enhance local practices and capabilities, which in turn supports the EU accession process (Frontex, 2019).

Frontex implemented Pre-accession Assistance projects by providing support for the establishment of National Coordination Centres in the Western Balkans, in the hope of eventually connecting them to the European Border Surveillance system. Additionally, Frontex has offered support to Western Balkan partners in developing their registration systems with the intention of facilitating their future interoperability with EURODAC—the European Asylum Dactyloscopy Database—in the context of EU accession (Frontex, 2019). Further-more, to enhance the exchange of information, Frontex has incorporated coherent and consistent data on labour migration to, from, and within the Western Balkans into the Western Balkans RAN, in accordance with relevant EU standards.

Where Frontex's engagement with African countries is concerned, it has encountered a more complex situation as a result of the limited administrative capabilities and diverse procedures in those countries. As mentioned at the start of this section, the quality of data collected from AFIC partners, and the efficiency of information exchange have been considered by Frontex to be limited in comparison to the outcomes of the Frontex Risk Analysis Network (FRAN) and the Western Balkans RAN (Interview, Frontex Official C, 2021). This limited outcome is reportedly associated with high levels of political instability, which has at times hindered Frontex's ability to find relevant counterparts (Interview, Frontex Official C, 2021).

Due to the frequent occurrence of military coups, Frontex also reports having had in some cases to rebuild contacts with new governments, such as following the 2012 Malian and the 2013 Egyptian coups. Another example can be found in the working arrangement that Frontex successfully concluded with the Republic of Guinea in February 2021. Following a military coup on the 5th of September that year, however, President Alpha Condé was removed from power, leading to the ratification of the agreement being postponed. Despite the EU publicly condemning the coup, the Republic of Guinea is still listed as a participant in the AFIC and continues to maintain an informal exchange of information with Frontex (Interview, Frontex Official D, 2022). To better identify potential new flows of migrants attempting to reach Europe, Frontex has also reinforced its information exchange with countries adjacent to Guinea (Interview, Frontex Official D, 2022).

In recognition of the difficulties encountered in collecting information covering the geographical area of Africa, Frontex initiated a 3-year capacity-building project in 2017. The project aimed to enhance the analytical and operational capabilities of AFIC partners in crime-fighting and to facilitate their effective sharing of information with Frontex. The funding—€4 million provided by the European Commission, Frontex and AFIC partners—enabled the agency to support the development of regular responses to requests for information, as well as workshops, training sessions, and field visits. As part of the project, Frontex deployed a liaison officer to Niamey in September 2017, the first long-term posting to a sub-Saharan state.[3] The liaison officer is mainly responsible for maintaining contacts with the relevant authorities of Niger involved in border and migration management and monitoring the border management situation including cross-border crime and migration flows that transit through or towards the country. Leveraging the funds allocated, Frontex has been able to regularly organise 2-week AFIC risk analysis courses at its headquarters, which aim to improve the capacity of AFIC countries to produce risk analysis and to facilitate effective cooperation by introducing common standards (Frontex, 2019).

By disseminating the RACs and organising training, Frontex endeavours to upgrade security systems and implement new technologies in host countries. Given that the use of biometric technologies in African border management is still in its early stages, Frontex has been working towards the promotion of border management information systems in AFIC partners and towards the enhancement of the interface between African intelligence and existing information technology systems (Border Security Report, 2021). According to documents obtained by the French investigative journal Mediapart, Frontex is currently working in collaboration with the European Commission and the International Organisation for Migration on the installation of border management information systems, such as MIDAS and PISCES, in the RACs and other selected border crossing points (Zandonini, 2019). Notably, in February 2020, Frontex solidified a partnership with the Commission to develop state of the art technology for the EU and global border and coast guard community to fend off potential risks. Despite concerns on the so-called 'technological regime of exclusion' (Csernatoni, 2018), developing and deploying digital technology and monitoring equipment have become increasingly central to Frontex's collaborations with the Western Balkan and African partners.

Through capacity-building projects for non-EU countries, Frontex has enhanced its own response to what it perceives as challenging situations in the prefrontier area and tested the deployment of new border control systems for EU end users, as well as managed an overall process of standardisation for the purpose of interoperability. The agency has not only gained greater capacity in shaping policy goals, which it jointly develops with EU policy actors and

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[3]Frontex currently has five liaison officers, in Ankara, Belgrade, Niamey, Dakar, and Tirana. The liaison officer to the Eastern Partnership (based in Kyiv) is under pending deployment due to Russia's invasion of Ukraine.

external stakeholders, but it has also substantially increased its level of autonomy in achieving such goals. The capability gaps and needs for new competences have been particularly felt on Frontex's side, which has, in turn, informed Frontex's experimental activities without ex ante recognition by EU policymakers. Frontex has been pivotal in the EU's efforts to Europeanise countries of origin and transit in the field of border controls and migration management.

## The projection of Frontex border guards beyond the EU external border

Frontex's international cooperation is deeply intertwined with the EU's accession process and migration policy, which aim to export EU standards relating to reception systems and border controls. The European Commission has consistently expressed its support for Frontex's presence in the Western Balkans, given the agency's ability to provide valuable instruments and expertise for the EU to effectively carry out its objectives on the ground. According to European Commission Policy Officer A (Interview, 2021), Frontex is considered to be a 'flexible and tangible force' that supports the gradual integration of Western Balkan countries into the EU. Furthermore, Frontex's extraterritorial operations in the region have become an integral platform for the EU's daily engagement and monitoring, complementing other multilateral cooperation projects and instruments led or managed by the European Commission.

In addition to the support provided by the European Commission, Western Balkan partners that are currently EU applicants willingly comply with EU rules and accept the presence of Frontex on their territory with the prospect of achieving full EU membership. On 5 October 2018, the EU signed a Status Agreement on border management cooperation with Albania, which came into effect on 1 May 2019. Similarly, agreements with Montenegro and Serbia were signed and came into effect on 1 July 2020, and 1 May 2021, respectively. These agreements are similar in content and enable Frontex staff to use force, including service weapons, ammunition, and equipment while performing tasks and exercising their powers in the presence of border guards or other relevant staff of the host third country, in accordance with the national law of that country. Following the ratification of these agreements, Frontex launched its first extraterritorial joint operation on 21 May 2019, deploying 50 officers to the Albanian border with Greece. This operation was followed, in July 2020, by a second one, staffed with 100 Standing Corps officers, at the Montenegro border with Croatia, and by a third operation, staffed with 50 Standing Corps officers, on the Serbian border with Hungary in June 2021.

Although these operations demonstrate the willingness of most Western Balkan partners to comply with EU rules and accept Frontex's presence on their territory, elements of resistance can also be identified. For instance, the ratification of the agreement between Frontex and Bosnia and Herzegovina has not proceeded as planned. The agreement, which was signed in April 2019, intended to place a Frontex team on the Bosnian border with Croatia. However, while the Council of the EU quickly ratified the agreement after it was signed, the Presidency of Bosnia and Herzegovina subsequently terminated the ratification procedure. The Bosnian authorities have instead requested that Frontex be deployed on the Herzegovina-Montenegro border and on the Bosnia-Serbia border, rather than on the northern border with Croatia due to concerns over the country's responsibility for migrants and refugees. The agreement was met with opposition, in particular, by members of the State Presidency. These have included the Serbian member of the State Presidency, Milorad Dodik, who stated that if 'Frontex would only go to the border of Bosnia and Croatia […] it would seal Bosnia and Herzegovina hermetically' and migrants would then be trapped in the country (Kovacevic, 2020).

While Bosnia and Herzegovina has rejected the idea of becoming a EU 'dumping ground' for migrants and refugees, Frontex remains a welcome instrument for the externalisation of EU migration and border policy. When the fieldwork for this article took place, the European

Commission and Frontex were in discussions with the Bosnia and Herzegovina Government to further clarify the location of Frontex staff (Interview, Frontex Official A, 2020). Parallel to these discussions, the European Commission and Frontex were also charting potential avenues to bolster the presence of the Frontex Standing Corps across various regions in Africa. Frontex (2020) had expressed its willingness to negotiate a status agreement with Senegal and Mauritania as early as February 2020. In February 2022, Commission President Ursula von der Leyen and Commissioner Ylva Johansson visited Dakar to assess the prospects of such an agreement. This initiative gained tangible momentum in July 2022 when the European Commission secured green light from the Council to formally commence negotiations regarding a status agreement with both Senegal and Mauritania. At the time of writing, these negotiations were actively underway.

As mentioned in the previous section, another African country that has the potential to host Frontex staff in the future is the Republic of Guinea, despite the EU's own condemnation of the military coup that overthrew the Government in 2021, and provided that the country is able to rebuild its democratic architecture. The signed agreement with Guinea allows Frontex staff to be deployed as EU experts, without executive powers, during Frontex's operations carried out on the territory of Guinea. As the relevant clauses on nonexecutive operations are separated from other clauses concerning capacity building and training in the agreement, the potential nonexecutive operations may include tasks such as planning, policy advice, operational coordination, and evaluation.

Wishing to further expand the number of international partners it boasts, in June 2021, Frontex's Management Board authorised the Executive Director to negotiate working arrangements with Mauritania, Morocco, Senegal, Gambia, and Niger. Frontex has aimed to include clauses on nonexecutive operations in future agreements, as a 'prelude' to future fully-fledged joint operations once the status agreement is concluded. In the *Single Programming Document 2021–2023*, the agency has also declared its intention to deepen partnerships with countries in various regions, especially the Silk Route region and Latin America (Frontex, 2021). When referring to the Silk Route countries, Frontex pays particular attention to countries of origin and transit, including Afghanistan, Bangladesh, Iran, Iraq, Pakistan, and Sri Lanka. The coordination of return operations and the implementation of the EU's readmission agreements are the agency's priorities for this region. To this end, Frontex plans to setup a liaison office for the region, when the political and security context permits (Frontex, 2021, p. 147).

In short, the development of Frontex's external relations and extraterritorial deployment has clearly shown patterns of two-level experimentalist governance. EU policymakers only provide a rather rough outline on how to reach rather broadly defined goals, thus allowing Frontex significant leeway in terms of finding solutions to specific problems and realising the predefined objectives. Rather than acting as a passive actor within the experimentalist architecture, Frontex has shown its willingness and capacity to explore new practices related to the external dimension of border controls. Nevertheless, within the two-level experimentalist governance structure it remains challenging to assess how Frontex's international actions have been received from an accountability perspective, as we are confronted with rather dynamic forms of accountability.

# HOLDING FRONTEX LIABLE—A CHALLENGE WITHIN A TWO-LEVEL EXPERIMENTALIST GOVERNANCE CONTEXT

The accountability-autonomy tensions, while relevant across all EU bodies, assume a pronounced significance in the context of Frontex. When compared with other EU agencies, Frontex's international mandate is considerably broader, and its on-the-ground activities are

not limited to technical and cooperative significance. Given the potential adverse human rights implications of Frontex's domestic and international operations, relying solely on ex post accountability is insufficient, and ongoing scrutiny is the only viable approach to ensure proper accountability (Carrera et al., 2013, p. 338). However, the experimental nature of policy and institutional development have meant that effective accountability does not always take place, which can lead to a lack of transparency and insufficient oversight. Frontex's external relations bring together two legally unsettled issues: the external dimension of EU border controls (or more broadly the external dimension of Justice and Home Affairs) and the limits to the empowerment of EU agencies (Coman-Kund, 2019). Since the institutional balance itself is already much contested between EU policy actors in the area of both border management and external relations, inserting Frontex in this equation adds another layer of complexity. While the Frontex-Commission relationship is not particularly problematic due to the Commission's enhanced monitoring role, and the composition of Frontex's Management Board does not raise concerns with Member States, the problem lies in parliamentary and peer-review accountability. The European Parliament and key civil society organisations have already been unable to adequately scrutinise Frontex's activities within the territory of the EU and been further marginalised in the agency's external relations.

It has been discussed that representatives from the Commission regularly attended AFIC meeting and workshops, while evidence of attendance by representatives from the European Parliament at these events is sparse. With the establishment of the Frontex Scrutiny Working Group in 2021, the European Parliament partially strengthened its principal-agent monitoring over Frontex's operations, However, the agency's extraterritorial activities have not been sufficiently politicised in the European Parliament, and there has been no strong mechanism for cooperation between the European Parliament and third country stakeholders in the field of cross-border mobility and movement (Interview, European Parliament Policy Advisor B, 2022).

This lack of parliamentary accountability has resulted in normative concerns being less present in Frontex's external relations, with the latter being predominantly driven by Frontex-Commission administrative officials' needs. According to Interview, European Parliament Policy Advisor A (2021), the agency struggles with fully integrating human rights concerns into its external action, an absence that is often exploited by countries with serious human rights abuses. For example, although Frontex has never coordinated any returns to Eritrea due to human rights concerns, the Sudanese Government sees itself as an enforcer of European policy wishes when it deports Eritrean nationals to their country of origin (Interview, Frontex Official B, 2021). The Sudanese Government's actions, carried out on behalf of the EU, not only raise questions as to the responsibility of Frontex, but they also pose significant political risks to Frontex and to the EU more generally. This example highlights the urgent need for Frontex to adhere to a more humanitarian approach in its external relations, to ensure that the agency's activities align with the EU's normative values.

While experimentalist governance differs from principal-agent accountability, effective experimentalist governance requires regular reporting and transparency to ensure that all stakeholders have access to the same information and knowledge, enabling them to evaluate the outcomes of the experimentation. However, EU policy actors are asymmetrically informed about Frontex's external relations. The majority of international actions are assessed solely by Frontex's Executive Director, resulting in limited awareness among EU stakeholders about the agency's activities (Interview, European Parliament Policy Advisor A, 2021). While the Commission has access to more information on Frontex's external relations through the agency's Management Board, it lacks details on day-to-day cooperation (Interview, European Commission Policy Officer A, 2021). Additionally, documents such as the monthly AFIC reports are not publicly accessible on the agency's website, and the versions disseminated are partially redacted. This lack of transparency hampers efforts to ascertain the nature of

commitments made by Frontex to third countries, which often possess weak administrative infrastructures and face challenges related to democratic processes.

In the context of two-level experimentalist governance, accountability needs to be strengthened at both the EU level and the lower-unit level by implementing measures that promote transparency, clarify mandates, and foster collaboration. At EU level, although the incomplete contract governing Frontex's external relations should still be flexible enough to allow for adaptation based on evolving circumstances, a more holistic, inclusive, and participatory approach needs to be established to facilitate oversight and peer-review. Over the years, Frontex has developed a more comprehensive view of the external dimension of border controls and pursued a concrete international cooperation plan. However, EU policy actors, especially the Commission, still follow a fragmented ad hoc approach to accommodate the political and geographical diversity that exists among third countries and have failed to establish a more systematic view of the role and place of Frontex in the EU's institutional set-up. In this light, the experimentalist approach to Frontex's external relations leads to more fragmentation instead of networking, more secrecy instead of transparency, and more unaccountable learning-by-doing practices instead of inclusive peer review.

Despite the diagnosis being relatively simple, the remedy to these problems is not straightforward. It requires EU policy actors to address more fundamental questions, namely: What are the macro and long-term goals of the external dimension of EU border controls? What is the role of Frontex, as well as of other EU bodies, in it? How to balance principal-agent oversight and peer-review accountability governing Frontex's external relations? How to coordinate different policy instruments to leverage third countries in the field of migration and border controls? It also requires the lower-unit level, Frontex, to address the following questions: How should it legitimate its external relations? How can it accommodate diverse and, at times, conflicting demands from EU and external stakeholders? And how can it enhance transparency and complaint mechanisms in its extraterritorial activities? Unfortunately, and despite perceived continuous immigration pressures, as well as the shared view that there is a need for greater expertise to support policy development and greater coherence in implementation, a constructive discussion on these issues is yet to be identified by the authors.

## CONCLUSION

An examination of Frontex's international cooperation reveals that the external dimension of Frontex is instrumental to agency autonomy and EU externalisation policy. Throughout this two-level experimentalist governance analysis, we have seen that Frontex has operated in a legally under-specified environment and has taken up distinctive operational opportunities. The creation of Frontex demonstrates the willingness of EU policymakers to experiment with the development of an integrated border management. However, the absence of a clear consensus among policymakers regarding the agency's mandate and role, as well as the broadly formulated policy goals of externalisation, have been translated into a significant source of Frontex's autonomy.

Operating at the nexus of EU border controls and international partnerships, Frontex inherently seeks to expand its international operations and engagements, allowing it to access more information and validating its existence. The agency not only makes tangible the imprecise policy goals set by EU stakeholders but also tests innovative approaches to collaborating with third-country partners, such as through the AFIC and the RACs. Despite resistance from some third countries, Frontex has largely succeeded in leveraging EU stakeholders and third-country partners through adaptive approaches and flexible cooperation arrangements.

Nevertheless, our findings also present a dilemma for those advocating for more and improved international coordination in the realm of border control. Despite Frontex's external relations as highly effective for enhancing experimentalist efforts in a recent policy field, particularly from the perspective of administrative officials, the detachment of international cooperation from parliamentary scrutiny and political debate remains deeply concerning. Frontex's external relations may contribute to policy experimentation and effective implementation due to their perceived flexibility and informality, but such an approach could simultaneously pose significant political risks to the agency and to the EU more generally.

## INTERVIEW LIST

European Commission Policy Officer A, 11 October 2021, online
European Commission Policy Officer B, 10 November 2021, online
European Parliament Policy Advisor A, 17 September 2021, online
European Parliament Policy Advisor B, 13 March 2022, online
Frontex Official A, 11 September 2021, online
Frontex Official B, 16 October 2021, online
Frontex Official C, 15 February 2022, online
Frontex Official D, 17 March 2022, online
Member of the European Parliament, 12 November 2021, online

## CONFLICT OF INTEREST STATEMENT
The authors declare no conflict of interest.

## DATA AVAILABILITY STATEMENT
The interview data analysed during the current study are available from the corresponding author on reasonable request. Any potentially identifying personal details have been thoroughly anonymised to maintain participant confidentiality.

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