

## EXTERNALIZED BORDERS OF THE EU: AN IMPERIAL REFLEX?

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### **Abstract**

*This work examines the increasing trend of externalization followed by the European Union in its migration governance, specifically its border management and asylum policies. The main discussion revolves around whether this externalization trend could be an imperial reflex by the EU or not. The paper starts with examining the arguments related to the EU's imperial characteristics and policies. This is followed by a brief history of the migration policies of the Union and the imperial characteristics of these policies. Finally, the externalization trend is discussed with examples which show that externalization of migration governance by the EU could be regarded as an imperial reflex. Therefore, this is an evidence of the EU's imperial character, at least when it comes to the management of its borders.*

**Keywords:** Externalization, Migration, European Union, Border, Empire

### **Avrupa Birliği'nin Dışsallaştırılmış Sınırları: Emperyal Bir Refleks mi?**

#### **Öz**

*Bu çalışma Avrupa Birliği tarafından göç yönetiminde, özellikle sınır yönetimi ve sığınma politikalarında, artarak takip edilmekte olan dışsallaştırma eğilimini incelemektedir. Ana tartışma bahsedilen bu dışsallaştırma eğiliminin emperyal bir refleks olarak görülüp görülemeyeceği üzerinedir. Makale, AB'nin emperyal özellikleri ve politikaları ile ilgili argümanların incelenmesi ile başlar. Bu incelemeyi AB'nin göç politikalarının kısa bir tarihi ve bu politikaların emperyal özellikleri takip etmektedir. Son olarak, AB'nin göç yönetimindeki dışsallaştırma eğilimi farklı örnekleri verilerek tartışılmaktadır. Bu örnekler ile AB'nin dışsallaştırma eğiliminin emperyal bir refleks olarak görülebileceği ileri*

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Makalenin Gönderilme Tarihi: 13/07/2020 Kabul Edilme Tarihi: 28/04/2021

sürülmektedir. Bu durum AB'nin, en azından sınırlarını yönetirken, emperyal özellikler gösterdiğini kanıtlamaktadır.

**Anahtar Kelimeler:** Dışsallaştırma, Göç, Avrupa Birliği, Sınır, İmparatorluk

## Introduction

A great amount of academic literature has culminated around the process of European integration and the European Union since its very first inceptions after the Second World War. Scholars specifically devoted time and interest in trying to define what kind of a process the European integration is, what type of power it creates or about what would be the result of this process, if any<sup>1</sup>. Indeed, defining the EU is not an easy task which was even described as an unidentified political object<sup>2</sup>. While some have seen the integration process and the EU as a peace project and a simple regional organization centered on free trade, others argued that the EU could be broadly seen as a “regulatory state”<sup>3</sup> or even a “super-state in the making”<sup>4</sup>. Several authors described the EU in terms of its power base such as a civilian, economic or a “normative power”<sup>5</sup>. All these definitions can explain certain characteristics of the EU and what can be derived from them is that the EU, as a polity, is neither normal nor perfect. The EU is hard to define because it does not fit to the ‘normal’ of actorness in today’s international system that is being a nation-state.

Charles Tilly argues that nation-states became the predominant model in Europe over tribute-taking empires and city-states as political units since nation-states were more efficient in using capital and coercion in a combined way<sup>6</sup>. By looking from this perspective, one can argue that European

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<sup>1</sup> Markus Jachtenfuchs, “The European Union as a Polity (II).” *In Handbook of European Union Politics*, ed. K. E. Jørgensen et al. (London: SAGE Publications Ltd., 2006).

<sup>2</sup> “Speech by Jacques Delors (Luxembourg, 9 September 1985)” Accessed June 20, 2020. [https://www.cvce.eu/obj/speech\\_by\\_jacques\\_delors\\_luxembourg\\_9\\_september\\_1985-en-423d6913-b4e2-4395-9157-fe70b3ca8521.html](https://www.cvce.eu/obj/speech_by_jacques_delors_luxembourg_9_september_1985-en-423d6913-b4e2-4395-9157-fe70b3ca8521.html).

<sup>3</sup> Giandomenico Majone, “From the Positive to the Regulatory State: Causes and Consequences of Changes in the Mode of Governance.” *Journal of Public Policy* 17, no.2 (1997).

<sup>4</sup> Sandra Lavenex, “Common Market, Normative Power or Super-State? Conflicting Political Identities in EU Asylum and Immigration Policy.” *Comparative European Politics* 17, no.4 (2019): 568.

<sup>5</sup> Ian Manners, “Normative Power Europe: A Contradiction in Terms?” *Journal of Common Market Studies* 40, no.2 (2002).

<sup>6</sup> Charles Tilly, *Coercion, Capital and European States, AD 990-1990*, (Cambridge: Basil Blackwell, 1990), 160.

integration process has led to capital replacing coercion for good in Europe, at least regionally inside the EU. As a result, nation-states in Europe transformed in terms of their nature and became member states of the EU, to use Bickerton's term<sup>7</sup>. Thus, the EU cannot be defined in Westphalian nation-state terms, but it could be better understood as a "peculiar type" of an empire<sup>8</sup>. This paper will follow Zielonka's definition of the EU as a "neo-medieval empire"<sup>9</sup> although the adjective 'neo-medieval' will be altered to 'liberal' since it would draw a more accurate picture of the EU's current normative character as an empire. The reason for focusing on empire is that the conceptualization of the EU as such is analytically more engendering than other definitions, especially in terms of the issue at hand in this paper, which is the nature of the EU's borders.

The main argument of this paper is that the externalization of the EU's borders, the process in which the borders of the Union lie increasingly outside of the territory of its member states, is an imperial reflex to cope with the increasing migration challenge that the EU and its members face. The arguments that will be discussed throughout the paper in terms of the EU's imperial characteristics are the soft nature of the EU's borders meaning that its borders are not fixed and could not be clearly defined, the use of non-territorial governance methods, normative justifications of border management and asylum policies of the EU and inherent center-periphery relationships that these policies reinforce both within and outside the EU.

Before the externalization of migration governance is discussed in the later sections of the paper, externalization in a broader sense or the so-called external governance of the EU must be defined. In a general sense, externalization could be defined as "the institutional forms and mechanisms through which the EU extends the perspective scope of EU rules to third countries"<sup>10</sup>. The rules that are being exported could be diverse and related to human rights, democracy, economy as well as migration governance while the future prospects for these third countries to be an EU member differ from "ever less likely" to "undecided" but still possible<sup>11</sup>. Therefore,

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<sup>7</sup> Christopher J. Bickerton, "From Nation States to Member States: A Brief History." In *European Integration*, (Oxford University Press, 2013).

<sup>8</sup> Jan Zielonka, *Europe as Empire: The Nature of the Enlarged European Union*, (Oxford University Press, 2006), 170.

<sup>9</sup> Zielonka, *Europe as Empire*, 15.

<sup>10</sup> Sandra Lavenex, "Multilevelling EU External Governance: The Role of International Organizations in the Diffusion of EU Migration Policies." *Journal of Ethnic and Migration Studies* 42, no.4 (2015): 3.

<sup>11</sup> Åsne Kalland Aarstad, and Niklas Bremberg. "The study of the European Neighbourhood Policy through the lenses of critical approaches." In *The Routledge Handbook on the European Neighbourhood Policy*, (Routledge, 2017), 88.

the literature on externalization tries to analyze the “extension of EU rules and practices beyond its legal borders, i.e., below the level of membership”<sup>12</sup> since the current external governance of the EU lacks the membership conditionality as a tool for inducing change inside the neighboring states. Overall, in the literature, externalization is frequently used in the context of migration governance. A group of arguments revolved around what Boswell argued as the “restrictive” approach where the EU uses economic or political incentives for its neighbors to enhance their border controls or to secure their cooperation in asylum matters such as the return of irregular migrants<sup>13</sup>. Scholars in this line of thinking have also used concepts like “policy conditionality”<sup>14</sup> or “extra-territorialisation”<sup>15</sup> to talk about the externalization of EU migration governance. Thus, deriving from the importance given by the EU to its neighbors in the externalization process, one can counter the argument that externalization leads to hard external borders and creates a “fortress Europe”<sup>16</sup>. It can be argued that, instead of a fortress, the process of externalization enhances soft external borders for the EU which creates “a networked, transnational border system”<sup>17</sup> and produces “new notions of sovereignty across more complex and multiple borders”<sup>18</sup> requiring the cooperation of the neighbors and partners of the EU. Therefore,

<sup>12</sup> Daniel Wunderlich, "The limits of external governance: implementing EU external migration policy." *Journal of European Public Policy* 19, no.9 (2012): 1414. For a comprehensive analysis on the EU's external governance see e.g. Sandra Lavenex, and Frank Schimmelfennig. "EU rules beyond EU borders: theorizing external governance in European politics." *Journal of European public policy* 16, no.6 (2009): 791-812; Stefan Gänzle, "Externalizing EU governance and the European neighbourhood policy: towards a framework for analysis." In *presentation at the Annual Meeting of the Canadian Political Science Association, UBC, Vancouver on*. 2008.

<sup>13</sup> Christina Boswell, "The 'external dimension' of EU immigration and asylum policy." *International affairs* 79, no.3 (2003): 619-638.

<sup>14</sup> Florian Trauner, "From membership conditionality to policy conditionality: EU external governance in South Eastern Europe." *Journal of European Public Policy* 16, no.5 (2009): 774-790.

<sup>15</sup> Jorrit J. Rijpma, and Marise Cremona. "The extra-territorialisation of EU migration policies and the rule of law." Available at SSRN 964190 (2007). For a further analysis of the term 'extraterritorial' in a legal context see e.g. Lisa Heschl, *Protecting the Rights of Refugees Beyond European Borders: Establishing Extraterritorial Legal Responsibilities*. Intersentia, 2018.

<sup>16</sup> Rut Bermejo, "Migration and Security in the EU: Back to Fortress Europe?" *Journal of Contemporary European Research* 5, no.2 (2009): 211.

<sup>17</sup> Martin Lemberg-Pedersen, "Effective Protection or Effective Combat? EU Border Control and North Africa." In *EurAfrican Borders and Migration Management*, (Palgrave Macmillan US, 2017), 55.

<sup>18</sup> Maribel Casas-Cortes, Sebastian Cobarrubias, and John Pickles. "Re-bordering the neighbourhood: Europe's emerging geographies of non-accession integration." *European Urban and Regional Studies* 20, no.1 (2013): 37-58.

by enhancing soft borders, externalization leads to an imperial EU rather than a Westphalian Union with hard borders.

The paper will open with a discussion on what is meant by the ‘imperial EU’ or, in other words, what makes the EU an empire in terms of its borders and the other related characteristics. To better understand why there is an externalization trend in the EU’s migration governance today, the second section would briefly look into the historical overview of the border management and asylum policies of the EU, how these policies came into being and why they can be seen as imperial policies. As it will be discussed with examples, there are mainly three reasons why border management and asylum policies of the EU are imperial in nature. First, these policies create and reinforce center-periphery relations, in terms of creating power asymmetries, both inside and outside the EU. Moreover, the justifications for these policies are normative in nature because of the “liberal paradox”, the dichotomy between promoting liberal norms and limiting or controlling immigration<sup>19</sup>, that is experienced by the Union. Lastly, the migration governance of the EU is increasingly non-territorial which means it is increasingly externalized. The last section before the concluding remarks would examine three cases of externalization in the EU’s migration governance. The cases will include cooperation mechanisms with the Eastern Neighborhood countries, the pragmatic partnership with Turkey and the joint operations of Frontex.

### I. What is Meant by Imperial EU?

Within the literature the concept of empire or, being imperial, is used mostly with a negative connotation linked to some specific historical concepts such as colonization and the exploitation of different parts of the world by the European powers<sup>20</sup>. However, empire should be understood in a much broader sense representing a specific political structure which was historically linked to those negative concepts but not necessarily depends on them to be defined. In its broadest sense, empire can be defined as a political structure involving a center controlling the activities of the political actors

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<sup>19</sup> James F. Hollifield, *Immigrants, Markets and States*, (Boston: Harvard University Press, 1992).

<sup>20</sup> See e.g. Barbara Hooper, and Olivier Kramsch. "Post Colonising Europe: The Geopolitics Of Globalisation, Empire And Borders: Here And There, Now And Then." *Tijdschrift voor economische en sociale geografie* 98, no.4 (2007): 526-534; Hartmut Behr, "The European Union in the legacies of imperial rule? EU accession politics viewed from a historical comparative perspective." *European Journal of International Relations* 13, no.2 (2007): 239-262.

within its periphery through various means, such as economic or political instruments, and using differing norms to justify its involvement in the periphery. As the center could be centralized and strong or decentralized and weak, the periphery could also differ in its nature and could be highly integrated to the center and its decision-making or it could have a loose and area-specific relationship with the center<sup>21</sup>.

Just like the medieval empires of Europe, as Zielonka puts it, the EU has no absolute monopoly of coercion or authority over all parts of its territory, its borders are not fixed and, consequently, overlapping jurisdiction areas and blurred center-periphery relations exist within the Union<sup>22</sup>. As a result of this historical analogy, the EU is called as a “neo-medieval” empire<sup>23</sup>. In the context of the paper few of the arguments related to this empire definition will be discussed in more detail: the nature of the borders, center-periphery relations and normative justifications for imperial actions.

Borders and their nature are very crucial in defining any kind of polity, be it a nation-state, city-state or an empire. Borders have a role to differentiate a specific political entity from others and to define what is foreign to that entity. According to Hill, in order for something to be foreign, it should be on the outside and for an outside to exist “there must not only be an inside but also a line” separating the two should exist as well<sup>24</sup>. As pointed out by Zielonka, there were no fixed and unchangeable border lines in medieval Europe, instead there were broad zones of influence and hinterlands<sup>25</sup>. Moreover, empires as polities “find it impractical to differentiate between external and internal policy” which was valid for the medieval European empires as well as it is valid for the European Union today<sup>26</sup>. In this regard, the similarity between the logic of imperial expansion in medieval Europe and the logic of EU enlargement policy is instructive here. Tilly argues that the logic behind imperial expansion in medieval Europe was to “enjoy the returns from coercion” in a safe zone of the empire

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<sup>21</sup> Jan Zielonka, “Empires and the Modern International System.” *Geopolitics* 17, no.3 (2012): 507-509.

<sup>22</sup> Zielonka, *Europe as Empire*, 10-11.

<sup>23</sup> Zielonka, *Europe as Empire*, 14. For an ‘empire’ analogy made earlier in the context of the EU see e.g. Ole Wæver, “Imperial metaphors: emerging European analogies to pre-nation-state imperial systems.” In *Geopolitics in post-wall Europe: security, territory and identity* (1997): 59-93.

<sup>24</sup> Christopher Hill, “The Geopolitical Implications of Enlargement.” In *Europe Unbound: Enlarging and Reshaping the Boundaries of the European Union*, (Routledge, 2003), 95.

<sup>25</sup> Zielonka, *Europe as Empire*, 11.

<sup>26</sup> Zielonka, “Empires and the Modern International System” 506.

by acquiring a surrounding buffer zone<sup>27</sup>. If the buffer zone became secure in time and integrated into the safe zone, a new buffer zone would be needed to protect the old which leads to expansion. What the EU does with the enlargement policy, and less successfully with the European Neighborhood Policy (ENP), is quite similar although it does not involve annexation by coercion. For instance, the Eastern enlargement in 2004 and the following enlargements show that the borders of the EU, both in territorial and governance terms, are soft and in a constant flux due to the possibility of future enlargements and the integrated relationships with the neighbors. The ENP shows how these integrated relationships expand the borders of EU governance to the outside of the EU territory. This expansion, however, is sometimes criticized and described as interference with the internal affairs of the neighbors<sup>28</sup>. It is pointed out that the EU perceives its neighborhood as “intermediate spaces between the inside and outside of the Union” and as “targets” of policy export<sup>29</sup>. However, it should be noted that the softness of the EU’s borders does not necessarily lead to expansion of the EU territory and governance. It might go to the reverse way as the recent exit of the United Kingdom from the EU exemplifies. Thus, the European Union shows imperial characteristics when the nature of its borders is considered. Just like the medieval empires, the territorial borders of the EU are not fixed and they do not coincide with the borders of EU governance, especially in migration governance.

The most easily detectable imperial future of the EU is the existence of center-periphery relations. It results from the softness of the EU’s internal and external borders. Unlike a fortress with hard walls, the EU resembles a “maze” where “different legal, economic, security, and cultural spaces” exist separately and increasing levels of cross-border cooperation blurring the inside-outside division<sup>30</sup>. In line with this argument, one can argue that the EU as an empire has two blurring peripheries, an internal and an external one.

Internally speaking, center-periphery relations could be seen in the old versus new Europe debate, the well-known North-South or East-West divides and the solidarity problems that the EU faces in crisis situations, the most recent one being the COVID-19 crisis. With every enlargement, the

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<sup>27</sup> Tilly, *Coercion, Capital and European States*, 70-71.

<sup>28</sup> Aarstad and Bremberg, "The study of the European Neighbourhood Policy" 84.

<sup>29</sup> Thomas Christiansen, Fabio Petito, and Ben Tonra. "Fuzzy Politics Around Fuzzy Borders: The European Union's Near Abroad." *Cooperation and conflict* 35, no.4 (2000): 389.

<sup>30</sup> Zielonka, *Europe as Empire*, 4.

Union territorially expands, the socio-economic discrepancies increase within the EU and new members are temporarily blocked from accessing certain resources and structures of the Union as was the case in the Eastern enlargement<sup>31</sup>. Current examples of such kind of an internal periphery group might include Greece, Cyprus, Italy and Spain when their general socio-economic situation, as well as their geographical locations in terms of asylum and border management issues<sup>32</sup>, are compared to the 'older' members of the EU such as Germany and France. With regards to economic comparison, Greece and Cyprus were even seen as "semi-protectorates run by a consortium of creditor states represented by the IMF and the Euro group."<sup>33</sup>

In terms of external peripheries, the most prominent examples are the immediate neighbors of the EU. Some of those neighbors have access to the certain resources and structures of the Union while others are "kept at a distance or even subject to open discrimination"<sup>34</sup>. An example to this situation could be given as Turkey's candidacy and the customs union between the two parties which is not the case with most of the EU's other neighbors. Moreover, through economic and technical help, the EU exports its governance in various areas to its external periphery as well. By taking migration governance to the center of the debate, the Union's relations with its peripheries and the export of its governance will be discussed in the next sections.

The last imperial characteristic that is linked to our debate is the normative justifications behind the EU policies. Since the Union has a polycentric governance, it is unable to have a coherent strategy or interest on international issues, unlike a Westphalian nation-state would have a national interest to pursue<sup>35</sup>. As a result of its polycentric nature, negotiation and deliberation became the norm in the EU decision making system<sup>36</sup>. This governance system makes the EU inefficient in dealing with a crisis in its neighborhood, but it also preserves internal peace and prevents conflict<sup>37</sup>. Therefore, most of the time the EU, just like a medieval empire, follows suboptimal and incoherent policies to answer the differing voices within the

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<sup>31</sup> Zielonka, *Europe as Empire*, 176.

<sup>32</sup> See e.g. Douglas Webber, *European Disintegration? the Politics of Crisis in the European Union*. (London: Palgrave Macmillan, 2019), 115-116.

<sup>33</sup> Jan Zielonka, "The Remaking of the EU's Borders and the Images of European Architecture." *Journal of European Integration* 39, no.5 (2017): 5.

<sup>34</sup> Zielonka, *Europe as Empire*, 12.

<sup>35</sup> Zielonka, "Empires and the Modern International System." 512.

<sup>36</sup> Jachtenfuchs, "The European Union as a Polity (II)." 165-168.

<sup>37</sup> Zielonka, "Empires and the Modern International System." 512.

Union. When it comes to justify these incoherent policies, the EU uses different norms according to the situation. For instance, the EU tries to promote democracy and human rights norms to its neighbors whenever possible in order to promote its liberal image and normative identity as an empire such as by including a human rights clause in its cooperation agreements with third countries or conducting a campaign in 1998 to abolish death penalty worldwide<sup>38</sup>, which was successful in the case of Turkey<sup>39</sup>. However, sometimes promotion of such norms clashes with the EU's interests in other policy fields such as border management and asylum policies where the EU would maneuver to other norms like achieving and protecting the European area of freedom, security and justice for the EU citizens. As pointed out by Zielonka, norms are useful to create "civilising missions" which are useful in turn to explain the purpose of imperial policies pursued by the empires<sup>40</sup>. In the case of the EU, these norms are mostly liberal (e.g. promotion of human rights or the rights of EU citizens) and not religious as they were in the medieval empires. In this respect, Zielonka's historical analogy with the medieval empires shows its limits. Yes, the EU could be referred to as an empire that has similar qualities with medieval empires, however, overly stressing the EU's medieval qualities carries the risk of shadowing what the EU truly is: a contemporary empire which is in its essence liberal. This is so because all the EU members are liberal democracies, at least *de jure*, and the Union is overtly promoting its liberal norms to its neighbors and to the world. However, it should be noted that being 'liberal' neither equals to being 'good' nor it means being away from criticism. According to Del Sarto, for instance, the EU acts with the logic of a "normative empire" towards its neighbors where the neighboring countries are expected to "gradually accept a pre-defined set of EU rules and practices, without being offered any say in the EU's decision-making"<sup>41</sup>. Some other scholars have questioned the acceptance of the normative superiority of liberal democracy itself and the normative power generated by the EU from this alleged superiority<sup>42</sup>. Thus, whether it is criticized or praised, the EU

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<sup>38</sup> Helen Sjusren, "Principles in European Union Foreign Policy". In *International Relations and the European Union*, (Oxford University Press, 2017), 448-449.

<sup>39</sup> Manners, "Normative Power Europe" 250.

<sup>40</sup> Zielonka, "Empires and the Modern International System." 515.

<sup>41</sup> Del Sarto, Raffaella A. "Normative empire Europe: The European Union, its borderlands, and the 'Arab spring'." *Journal of Common Market Studies* 54, no.2 (2016): 226.

<sup>42</sup> See e.g. Michelle Pace, "Paradoxes and contradictions in EU democracy promotion in the Mediterranean: the limits of EU normative power." *Democratization* 16, no.1 (2009): 39-58; Thomas Diez, "Constructing the Self and Changing Others: Reconsidering Normative Power Europe." *Millennium* 33, no.3 (2005): 613-636; Münevver Cebeci, "European

could be best described as a ‘liberal empire’ deriving from its normative identity.

As what is meant by the ‘imperial’ EU is discussed, the following section would overview the migration governance of the Union.

## II. Migration Governance and the EU

The idea of free movement of persons has developed together with the aim to establish a common market in Europe. Therefore, migration governance of the EU is highly interwoven with liberal economic ideals. As a ‘liberal’ empire the EU experiences, in its migration governance, what every liberal state experience which was famously described as the “liberal paradox”<sup>43</sup>. It means the conflicting situation where liberal economic policies and human rights norms clash with political voices to limit immigration and to control borders. These political voices are directed both to the immigration from outside the Union as well as to the intra-EU migration between member states, the UK being a case in point<sup>44</sup>. However, since the focus of the paper is on the asylum and border management policies of the EU, the debates on intra-EU migration would be disregarded for coherency. Overall, in addition to the liberal paradox and the accompanying need for balancing the security oriented border management and asylum policies of the EU with its normative identity, the EU’s migration governance is affected by the need for non-territorial governance methods and the prevailing center-periphery relationships between the EU members as well as between the Union and its neighbors thanks to the EU being a liberal empire.

European cooperation in migration and asylum fields predates the establishment of the EU and goes back to the 1980s. Schengen was originated in 1985 when Germany, France and the Benelux states signed an agreement to abolish internal border checks between themselves in the same day as the Single Market Programme had commenced<sup>45</sup>. As pointed out by Lavenex, a coordinators group was founded in 1988, which was also called TREVI, to “promote EU-wide cooperation” regarding the free movement of

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foreign policy research reconsidered: constructing an ‘Ideal Power Europe’ through theory?." *Millennium* 40, no.3 (2012): 563-583.

<sup>43</sup> James F. Hollifield, *Immigrants, Markets and States*, (Boston: Harvard University Press, 1992).

<sup>44</sup> See e.g. James Dennison and Andrew Geddes. "Brexit and the perils of ‘Europeanised’ migration." *Journal of European public policy* 25, no.8 (2018): 1137-1153.

<sup>45</sup> Webber, *European Disintegration*, 141.

persons<sup>46</sup>. The group, in their famous Palma document of 1989, stressed the need to enhance controls at the external borders and to find a way to determine “the State responsible for examining the application for asylum” before establishing an area of free movement<sup>47</sup>. The document was influential in the making of the Dublin system of 1990, which was updated several times such as in 2003 and 2013.

The Dublin system mainly argued that the state in which an asylum seeker entered the Schengen area should be responsible for processing his or her application<sup>48</sup>. The aim of the system was not to “share asylum burdens”<sup>49</sup> of the EU members but its aim was to prevent asylum shopping by the asylum seekers between different EU members by harmonizing asylum standards and to prevent any ambiguity in the asylum determination process. This system is a clear embodiment of the imperial center-(internal) periphery relationship which is justified in a normative way. As pointed out by Bossong and Carrapico<sup>50</sup>, the Dublin system, coupled with the financial problems that were faced by some member states with the external EU borders such as Greece, Italy and Spain, created resentment in these countries and solidarity problems within the EU during the Migration Crisis in 2015. It could be argued that through the Dublin system, the imperial center (mainly the ‘old’ members: Germany, France and the Benelux states) externalized their borders to their internal periphery (the frontline states: Greece, Italy and Spain) in terms of managing asylum applications. Another imperial characteristic of this policy is the normative justification behind it. The “core assumption” of the Dublin system is that asylum seekers’ rights will be promoted and they “will receive equal consideration and treatment” in every EU member state regardless of the member state the application will be made<sup>51</sup>. However, this assumption does not quite reflect the reality since “asylum legislation and practice still vary widely from country to country,

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<sup>46</sup> Lavenex, “Common Market, Normative Power or Super-State?” 573.

<sup>47</sup> “The Palma Document”, Accessed June 25, 2020. <https://www.statewatch.org/semDOC/assets/files/keytexts/ktch1.pdf>.

<sup>48</sup> Webber, *European Disintegration*, 149.

<sup>49</sup> Desmond Dinan, Neill Nugent, and William Edgar Paterson. *The European Union in Crisis* (London: Palgrave, Macmillan education, 2017), 110.

<sup>50</sup> Raphael Bossong, and Helena Carrapico. “The Multidimensional Nature and Dynamic Transformation of European Borders and Internal Security.” In *EU Borders and Shifting Internal Security: Technology, Externalization and Accountability* (Springer International Publishing, 2016), 6.

<sup>51</sup> Susan Fratzke, *Not Adding Up: The Fading Promise of Europe's Dublin System*. Migration Policy Institute Europe, 2015. Accessed June 20, 2020. <https://www.migrationpolicy.org/research/not-adding-fading-promise-europes-dublin-system>

causing asylum-seekers to receive different treatment” within the EU<sup>52</sup>. Thus, the Dublin system exemplifies an imperial policy since it creates center-periphery relations within the EU and is justified in normative terms.

With the Maastricht Treaty, the EU gained competences, in an intergovernmental sense, regarding asylum and immigration matters. Later as the prospect for an Eastern enlargement drew nearer, the areas related to migration governance was communitarized in 1999 with the Amsterdam Treaty and a goal to create an ‘Area of Freedom, Security and Justice’ was set<sup>53</sup>. Following Amsterdam, cooperation on migration gained momentum with the Tampere Programme in 1999 which urged the creation of an agency to control external borders<sup>54</sup> and gave a “political green light”<sup>55</sup> to cooperation with third states in migration governance. It is with this background that the term ‘integrated border management’ (IBM) came into being, eventually leading to the creation of a European agency in 2004 for its actualization which became known as Frontex. The IBM could be basically defined as the increased cooperation between the member states of the EU in border control, intelligence gathering for cross-border crime, cooperation with third countries and coordination with the European agencies<sup>56</sup>. By looking at this definition, IBM can be seen as an imperial policy because of two reasons. Firstly, it promotes non-territorial methods in migration governance such as cross-border intelligence gathering or cooperating with third states. Secondly, it is justified normatively, serving both to the protection of migrants (by fighting with human smugglers and traffickers) and of the European citizens (by protecting the European Area of Freedom, Security and Justice). Frontex, and the IBM, will be discussed as an externalization example in the next section.

By enlarging to the Central and Eastern Europe in 2004, the EU incorporated its former “buffer zone” into its empire<sup>57</sup>. As a result, creation of a new buffer zone became necessary for the stability of the Union and, to achieve this, the EU launched in 2004 the European Neighborhood Policy. As Zielonka points out, the Eastern enlargement resulted with a halt to

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<sup>52</sup> “The Dublin Regulation” Accessed October 15, 2020. <https://www.unhcr.org/protection/operations/4a9d13d59/dublin-regulation.html>

<sup>53</sup> Stephan Keukeleire, and Tom Delreux. *The Foreign Policy of the European Union* (London: Palgrave MacMillan, 2014), 232.

<sup>54</sup> Sarah Léonard, “EU Border Security and Migration into the European Union: FRONTEX and Securitisation through Practices.” *European Security* 19, no.2 (2010): 234.

<sup>55</sup> Keukeleire and Delreux, *Foreign Policy of the European Union*, 232.

<sup>56</sup> “Council conclusions on integrated border management. 4-5 December 2006.” Accessed June 27, 2020 [https://ec.europa.eu/commission/presscorner/detail/en/PRES\\_06\\_341](https://ec.europa.eu/commission/presscorner/detail/en/PRES_06_341).

<sup>57</sup> Tilly, *Coercion, Capital and European States*, 70-71.

further big enlargements since the cultural and political distance of the new neighbors and the increasing populist threats to the Union make any big enlargement unfeasible<sup>58</sup>. Therefore, as an alternative to further enlargements, the ENP became the main EU framework for policies towards the Eastern and Southern neighborhoods. The main aim of the ENP was establishing a prosperous and stable ring of states around the Union and avoiding “new dividing lines” to occur between neighbors and the EU<sup>59</sup>. While the ENP is not exclusively a migration related policy, border management and asylum gradually became crucial aspects of the policy. The core mechanism of the ENP is the gradual economic and various policy-based harmonization of the neighbors with the EU. According to the pace of harmonization with the EU, the Union would provide increasing access to its markets, mobility mechanisms and financial assistance<sup>60</sup>. When its overall function is considered, the ENP is a clear example of an external governance tool where the rules and norms of the EU in various fields are being exported to neighboring countries with the use of practical incentives without a membership prospect for the so-called neighbors or partners.

Crucial to our debate, the ENP involved a novel instrument called Mobility Partnerships with regards to migration governance. They were described as the “flagship instruments” of the EU’s Global Approach to Migration and Mobility (GAMM), which has a focus on Africa, the Mediterranean region and Eastern Europe<sup>61</sup>. First initiated in 2008 with Moldova and Cape Verde, the main idea behind the Mobility Partnerships was to partially open the EU’s borders to temporary migration of certain segments of third country nationals in return for improved border controls by the third countries concerned<sup>62</sup>. While Mobility Partnerships are legally not binding, they involve commitments of readmission of migrants by the third states and of technical and financial support by the European Union<sup>63</sup>. In their results, however, Mobility Partnerships were seen by some scholars as EU-centric and not innovative, mostly disregarding the needs of the

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<sup>58</sup> Zielonka, *Europe as Empire*, 175.

<sup>59</sup> Keukeleire and Delreux, *Foreign Policy of the European Union*, 250.

<sup>60</sup> Keukeleire and Delreux, *Foreign Policy of the European Union*, 255.

<sup>61</sup> Florian Trauner, and Jean-Pierre Cassarino. "Migration: Moving to the centre of the European Neighbourhood Policy." In *The Routledge Handbook on the European Neighbourhood Policy*. (Routledge, 2017), 395.

<sup>62</sup> Stefan Brocza, and Katharina Paulhart. “EU Mobility Partnerships: A Smart Instrument for the Externalization of Migration Control.” *European Journal of Futures Research* 3, no. 1 (2015): 1-2. <https://doi.org/10.1007/s40309-015-0073-x>.

<sup>63</sup> Brocza and Paulhart, “EU Mobility Partnerships” 2.

neighboring countries<sup>64</sup>. For instance, at the implementation level both the ENP and the Mobility Partnerships remained largely focused on reaching readmission agreements with the third states while improvement of market access or visa facilitation processes remained either underutilized or not realized at all on the side of the EU<sup>65</sup>. Overall, through the ENP and Mobility Partnerships, the EU governs migration from outside of its territory and externalizes its borders, in terms of immigration control, to its external periphery while not offering an extensive access to the Union's resources and decision making in these so-called partnerships.

As shown with the examples above, migration governance of the EU reflects the imperial character of the Union. Firstly, the EU's migration governance reinforces center-periphery relationships both between the EU members and between the Union and the neighboring countries. Secondly, the resulting policies are normatively justified with reference to either human rights or the rights of the European citizens. Lastly, the migration governance of the EU is increasingly non-territorial in its implementation which can be described as an externalized governance method. This last aspect is what the discussion will turn to in the following section.

### III. Cases of Externalized Migration Governance

If the broad definition of externalization made in the introduction would be applied to the EU migration governance, the process could be defined as a "series of interconnected policy initiatives directed towards third-party involvement in the enforcement of EU border controls"<sup>66</sup>. In other words, it involves the externalization of the EU border controls to the outside of the EU territory either to international and territorial waters (e.g. Frontex operations) or to the external periphery, officially called neighbors or partners, of the EU. As discussed above, the externalization process of border management and asylum policies could take various forms like the ENP, Mobility Partnerships, the IBM or bilateral agreements.

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<sup>64</sup> See e.g. Roderick Parkes, "EU mobility partnerships: A model of policy coordination?." *European Journal of Migration and Law* 11, no.4 (2009): 327-345; Natasja Reslow, "The role of third countries in EU migration policy: The mobility partnerships." *European Journal of Migration and Law* 14, no.4 (2012): 393-415; Sandra Lavenex, "Justice and Home Affairs." *Policy-making in the European Union* (2010): 457-82.

<sup>65</sup> Nora El Qadim, "The ENP and Migration." *Global Affairs* 2, no.4 (2016): 2-3. <https://doi.org/10.1080/23340460.2016.1243359>.

<sup>66</sup> Bruno Oliveira Martins, and Michael Strange. "Rethinking EU External Migration Policy: Contestation and Critique." *Global Affairs* 5, no.3 (2019): 199. <https://doi.org/10.1080/23340460.2019.1641128>.

Externalization goes back to the 1999 Tampere Council and has increased continuously through various initiatives over the years<sup>67</sup>. For instance, the EU's stress on externalization was prominent in many "regional dialogues and consultative processes" including the Budapest Process and the Prague Process with the Eastern neighborhood and the Khartoum and Rabat Process with the Southern neighbors<sup>68</sup>. Most recently, the Migration Crisis in 2015 led to "mounting" levels of externalization because of solidarity problems in managing refugee flows inside the EU, the clearest example being the EU-Turkey Statement of 2016<sup>69</sup>. As mentioned earlier, externalization leads to networked and soft borders rather than hard and fixed external borders, therefore, it enhances the imperial nature of the EU. The rest of the section aims to provide a brief look into the three examples of externalization trend one by one.

### A. Cooperation with the Eastern Neighborhood

Origin of cooperation with the Eastern neighbors in migration issues dates back to bilateral Partnership and Cooperation Agreements (PCAs) signed in the 1990s. These agreements were followed by different policy tools until today such as the ENP, the Eastern Partnership (EaP) and the European Neighborhood Instrument (ENI) as the financial backbone of these policies<sup>70</sup>. Through these policy tools the EU engages in capacity building in its Eastern neighbors. By doing so, the Union aims to transfer its migration control responsibilities to its neighbors in the long term and provides them incentives for their cooperation. Examples to this logic could be the parallel agreements of migrant readmission and visa facilitation concluded with Georgia, Ukraine, Moldova and Russia<sup>71</sup>. However, the EU's externalization agenda is not always passively accepted by the region since "competing regional actors, such as Russia, exploit the salience of the migration issue for their own interests"<sup>72</sup>.

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<sup>67</sup> Keukeleire and Delreux, *Foreign Policy of the European Union*, 232.

<sup>68</sup> Trauner and Cassarino, "Migration: Moving to the centre of the European Neighbourhood Policy." 395.

<sup>69</sup> Martins and Strange, "Rethinking EU External Migration Policy" 197. See also Frank Schimmelfennig, "European Integration (Theory) in Times of Crisis. A Comparison of the Euro and Schengen Crises." *Journal of European Public Policy* 25, no.7 (2018): 981-982.

<sup>70</sup> Keukeleire and Delreux, *Foreign Policy of the European Union*, 256-257.

<sup>71</sup> Keukeleire and Delreux, *Foreign Policy of the European Union*, 236. See also Raül Hernández i Sagrera, "The EU–Russia readmission–visa facilitation nexus: an exportable migration model for Eastern Europe?." *European Security* 19, no.4 (2010): 569-584.

<sup>72</sup> Trauner and Cassarino, "Migration: Moving to the centre of the European Neighbourhood Policy." 401.

In the literature, cooperation with Moldova and Belarus in migration governance were given as the most prominent examples of externalization conducted by the EU in its Eastern neighborhood. The example of Moldova was given by Brocza and Paulhart who focused on the Mobility Partnership signed in 2008 between the fifteen EU member states and Moldova<sup>73</sup>. It is argued that overall, the partnership was dominated by the EU's own security concerns such as reaching a readmission agreement, enhancing Moldovan border control capacities, preventing document fraud and fighting with human trafficking and organized crime. On the side of promoting legal migration of Moldovan citizens, the partnership generally failed in its first years since the targeted improved access to the EU labor markets was stagnant due to the 2008 financial crisis and social protection for Moldovan migrants who were able to benefit from the partnership received little attention from the EU member states<sup>74</sup>. Later, however, the partnership paved the way for the visa-free travel for Moldovan citizens in 2014<sup>75</sup>, making Moldova an exception in the Eastern Neighborhood.

Belarus example was discussed by Yakouchyk and Schmid who argue that the EU is pursuing a pragmatic security-migration cooperation with Belarus while officially sanctioning the country (e.g. through travel bans for politicians) for its authoritarian political structure<sup>76</sup>. While Belarus was excluded from the ENP in 2004, it was included in the Eastern Partnership (EaP) in 2009 since the Union recognized the necessity of Belarusian cooperation in migration-security issues<sup>77</sup>. It is pointed out that with the carrot of inclusion to the EaP, Belarus ratified readmission agreements with Russia and Kazakhstan, the countries which are the main sources of irregular migration both to Belarus and the EU<sup>78</sup>. Moreover, since 1996 the EU has engaged in various capacity-building projects in Belarus and provided a huge amount of financial aid regarding migration governance. For instance, from 1999 to 2014 various border management projects were implemented in Belarus either within EaP structure or through cooperation with IOM and UNDP Belarus branch as well as more than eighty million euros being

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<sup>73</sup> Brocza and Paulhart, "EU Mobility Partnerships" 3.

<sup>74</sup> Brocza and Paulhart, "EU Mobility Partnerships" 4-6.

<sup>75</sup> Trauner and Cassarino, "Migration: Moving to the centre of the European Neighbourhood Policy." 398.

<sup>76</sup> Katsiaryna Yakouchyk, and Alexandra M. Schmid. "EU-Belarus Cooperation in Border Management: Mechanisms and Forms of Norm Transfer." In *EU Borders and Shifting Internal Security: Technology, Externalization and Accountability* (Springer International Publishing, 2016).

<sup>77</sup> Keukeleire and Delreux, *Foreign Policy of the European Union*, 257.

<sup>78</sup> Yakouchyk and Schmid, "EU-Belarus Cooperation in Border Management" 125.

allocated to border assistance via the ENPI<sup>79</sup>. As Lavenex argues, the linkage with international organizations like IOM gives the externalization policies of the Union the necessary legitimacy since they were started to be portrayed by the neighbors as international norms<sup>80</sup>. The EU not only engages in bilateral projects with its neighbors but also supports border management projects between its neighbors as well. A good example of this is the SURCAP project initiated by the EU between Ukraine and Belarus. The aim of the project is to “help increase efficiency and effectiveness of the work of the Belarusian and Ukrainian border services in central and western areas of the countries’ joint border”<sup>81</sup>. The project involves provision of training, exchange of expertise, and procurement of equipment regarding border management between the parties.

Thus, migration-security cooperation and externalization of border controls were prioritized by the EU over the interests of the neighbors and the democracy promotion in the Eastern Neighborhood, as the cases of Moldova and Belarus demonstrates, and implementation of these policies and projects were either delegated to international organizations or framed in a multilateral fashion to attain a normative legitimacy, showing the imperial nature of these policies.

### **B. Pragmatic Partnership with Turkey**

While cooperation between the EU and Turkey on migration governance dates back to the bilateral relations of certain member states such as Greece, the relationship truly gained momentum in 2013 with the Visa Liberalization Dialogue started and the Readmission Agreement signed between Turkey and the EU<sup>82</sup>. The Visa Liberalization Dialogue was used by the EU as an incentive for securing the Readmission Agreement just like the strategy with the Eastern neighbors mentioned above. The Migration Crisis in 2015 became another turning point for externalization of the EU’s border management and asylum policies to Turkey.

When the Migration Crisis hit Europe in summer of 2015 and a comprehensive internal refugee relocation scheme could not be established

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<sup>79</sup> Yakouchyk and Schmid, “EU-Belarus Cooperation in Border Management” 129-132.

<sup>80</sup> Lavenex, “Multilevelling EU External Governance” 4.

<sup>81</sup> “Annex 2 of the Commission Implementing Decision on the ENPI East Regional Action Programme 2013 Part II. Action Fiche for Eastern Partnership Integrated Border Management project” European Commission, Accessed July 08, 2020. [https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/enpi\\_2013\\_c2013\\_8293\\_rap\\_east\\_partii\\_ibm\\_surveillance.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/enpi_2013_c2013_8293_rap_east_partii_ibm_surveillance.pdf).

<sup>82</sup> “Readmission Agreement” Accessed June 28, 2020. <https://www.avrupa.info.tr/en/readmission-agreement-6895>.

by the member states, as a result of the imperial character of the Dublin system mentioned earlier, one of the intergovernmental solutions led by Germany was reaching an agreement with Turkey. The EU-Turkey Statement was put into force in March 2016 and it was aimed at curtailing the influx of refugees coming to the Greek islands via the Eastern Mediterranean route by strengthening cooperation with Turkey in return for providing financial assistance, visa liberalization for Turkish citizens and facilitating the accession negotiations by opening up new chapters<sup>83</sup>. The EU-Turkey Statement, as Schimmelfennig rightly points out, was a prominent example for the externalization of migration governance by the EU<sup>84</sup>. Consequently, the flow of irregular migration to the EU fell sharply within the following months<sup>85</sup> while, after five years as of today, other aspects of the EU-Turkey Statement had not been materialized. Therefore, the EU prioritizes its internal security objectives over the incentives offered to Turkey during the implementation process of the Statement in question. It can be argued that this situation reinforces the EU as an imperial center and Turkey as its external periphery in terms of migration governance. It should be noted, however, that the pragmatic nature of the EU-Turkey Statement and the strategic role Turkey played in its implementation turned later on into a leverage for Turkey against the EU and transformed the bilateral relationship into a pragmatic partnership driven by strategic bargain. The most recent example of this occurred in February-March 2020 when Turkey “gave the green light to refugees and migrants”<sup>86</sup> to go to the EU border which triggered a diplomatic crisis.

In this regard, Turkey demonstrates a good example of what Browning and Christou call as the “power of margins” where being in the margins gives the outsiders “the capacity to act back on the EU” and have a constitutive power over the center<sup>87</sup>. Therefore, it can be argued that Turkey has gained a leverage in its relations with the EU thanks to being in the external periphery of an imperial center, which is the European Union.

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<sup>83</sup> Webber, *European Disintegration*, 167.

<sup>84</sup> Schimmelfennig, “European Integration (Theory) in Times of Crisis” 982.

<sup>85</sup> “Annual Risk Analysis for 2018” Accessed October 19, 2020. <https://frontex.europa.eu/publications/risk-analysis-for-2018-aJ5nJu>.

<sup>86</sup> “Erdogan warns Europe to expect ‘millions’ of migrants after Turkey opens borders” Accessed June 28, 2020. <https://www.france24.com/en/20200303-erdogan-warns-europe-to-expect-millions-of-migrants-after-turkey-opens-borders>.

<sup>87</sup> Christopher S. Browning and George Christou. “The constitutive power of outsiders: The European neighbourhood policy and the eastern dimension.” *Political Geography* 29, no.2 (2010): 110-111.

### C. Frontex as an Agent of Externalization

Frontex was created in 2004 to implement the IBM strategy of the EU by facilitating “the integrated management of the external borders of the Member States of the European Union”<sup>88</sup>. Frontex experienced increases in its competences, staff and resources by two amendments to its regulation in 2007 and 2011. The growing capacity of the agency did not stop there, however. In 2016, Frontex grew larger in terms of resources and competences and was renamed as the ‘European Border and Coast Guard Agency’<sup>89</sup>. The final change came with a new regulation in 2019 giving the agency the Europe’s first uniformed service to assist national authorities with border control activities<sup>90</sup>. Léonard describes Frontex based on its tasks as coordinator of joint operations, trainer of border guards, analyzer of risks and user of advanced technologies<sup>91</sup>. Following such a classification of tasks is fruitful for stressing the operational role of Frontex on the ground together with the member states.

Specifically, joint operations conducted by Frontex at international waters or territorial waters of third states could be regarded as an example of externalization since they involve cross-border intelligence gathering, participated by third states and occur outside of the EU territory<sup>92</sup>. For instance, as of today, Frontex has more than twenty working arrangements with third states concerning their cooperation in Frontex operations, some examples could be given as arrangements with Cape Verde, Nigeria, Ukraine and Turkey<sup>93</sup>. With such arrangements Frontex was able to patrol the territorial waters of “Mauritania, Senegal, Cape Verde and the Canary Islands to try to stop immigration at its source”<sup>94</sup>. In addition, specifically concerning the Western Africa and Western Mediterranean irregular migration routes, Frontex initiated important joint operations namely Hera, Indalo and Minerva with the help of the “experience gained by Spain in joint maritime surveillance operations” conducted together with the North African

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<sup>88</sup> “Regulation 2007/2004 Establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union.” Accessed June 27, 2020. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32004R2007>.

<sup>89</sup> “Legal Basis” Accessed July 8, 2020. <https://frontex.europa.eu/about-frontex/legal-basis/>.

<sup>90</sup> “Regulation (EU) 2019/1896” Accessed July 8, 2020. <https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1573722151667&uri=CELEX:32019R1896>.

<sup>91</sup> Léonard, “EU border Security” 239.

<sup>92</sup> Léonard, “EU border Security” 240.

<sup>93</sup> “Key Documents” Accessed July 1, 2020. <https://frontex.europa.eu/about-frontex/key-documents/?category=working-arrangements-with-non-eu-countries>.

<sup>94</sup> Keukeleire and Delreux, *Foreign Policy of the European Union*, 234.

countries<sup>95</sup>. Therefore, through its joint operations, Frontex could be perceived as policing the EU borders remotely. The reason behind this remote control is the existence of sophisticated human rights and refugee law established in the EU once a migrant reaches the EU territory and claims asylum<sup>96</sup>. In other words, the EU members are keen to externalize border control responsibilities to third states through the joint operations of Frontex in order to avoid cumbersome legal processes to erupt between the EU members in case of a refugee influx arriving to the EU territory since the EU members would be expected to provide human rights centered and liberal asylum procedures for the asylum seekers resulting from the liberal identity of the Union.

With the increasing criticisms directed towards its operations from human rights groups, Frontex gradually incorporated human rights into its official discourse and stressed the agency's adherence, while conducting its operations, to the international human rights law. From 2011 onwards, Frontex institutionalized this approach by introducing to its structure a Fundamental Rights Officer and a Consultative Forum on Fundamental Rights. These bodies give advice to Frontex and the related staff about the rights of migrants and asylum seekers. The members of the Consultative Forum consist of international and non-governmental organizations such as the UNHCR, IOM, Amnesty International and the Red Cross<sup>97</sup>. Here again by incorporating international organizations into its structure, the EU tries to justify its externalization policies by referring to the human rights norms. Moreover, the desire to find a humanitarian justification to its activities is evident in most of the documents of Frontex. For instance, the decreasing detections of 'illegal' border crossings resulting from Frontex operations were framed as a success in decreasing the number of possible deaths of migrants in dangerous journeys. In its Annual Risk Analysis report for 2016, Frontex was regularly portrayed as the savior of migrants in the Mediterranean whose lives were put at risk by smugglers<sup>98</sup>. In this report,

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<sup>95</sup> Ana López-Sala, and Dirk Godenau. "Integrated Border Management and Irregular Migration at the South European-North African Border: The Case of Spain." *In EU Borders and Shifting Internal Security: Technology, Externalization and Accountability* (Springer International Publishing, 2016), 92.

<sup>96</sup> Peter Slominski, "The Power of Legal Norms in the EU's External Border Control." *International Migration* 51, no. 6 (2013): 44. <https://doi.org/10.1111/imig.12089>.

<sup>97</sup> "Fundamental Rights at Frontex" Accessed July 8, 2020. <https://frontex.europa.eu/fundamental-rights/fundamental-rights-at-frontex/>

<sup>98</sup> "Annual Risk Analysis for 2016" Accessed June 20, 2020. [https://frontex.europa.eu/assets/Publications/Risk\\_Analysis/Annula\\_Risk\\_Analysis\\_2016.pdf](https://frontex.europa.eu/assets/Publications/Risk_Analysis/Annula_Risk_Analysis_2016.pdf).

Frontex successfully links the irregular migration to organized crime and focuses on the smugglers as criminals and migrants as victims, leading to a humanitarian justification for the externalization process.

Recently, however, Frontex's human rights rhetoric and its organizational innovations are being challenged by the media as well as the EU institutions such as the European Parliament. Frontex was alleged to be involved in pushbacks of asylum seekers in the Eastern Mediterranean between Greece and Turkey throughout 2020. These increasing allegations led the European Parliament to form the Frontex Scrutiny Working Group for gathering of evidence<sup>99</sup>. While the European Anti-Fraud Office (OLAF) started investigations concerning these alleged pushbacks involving Frontex maritime operations, the European Commission directed criticisms stressing the inability of Frontex to hire Fundamental Rights Officers by the end of 2020 for monitoring the operations of the agency<sup>100</sup>. Because of these human rights concerns the European Parliament outright refused to approve Frontex's budget and demanded corrective action from the agency by the third quarter of 2021<sup>101</sup>. However, it should be noted that the "power of the purse" approach of the European Parliament to monitor the actions of the EU agencies through the stick of budget is not a new development<sup>102</sup>. Therefore, it is unlikely that these human rights concerns and investigations would result in the resources and competences of Frontex to be decreased substantially when the EU's overall tendency to prioritize the externalization agenda over human rights concerns is considered.

Thus, by coordinating their own efforts and efforts of their neighbors through the joint operations of Frontex, the EU members successfully externalize their border control responsibilities to their neighbors and third states. Moreover, to stay in line with its 'liberal empire' identity, the EU incorporates human rights norms to the structure of Frontex and supervises the implementation of these norms vocally if not yet practically.

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<sup>99</sup> "Frontex chief: about time MEPs probe his agency" Accessed February 26, 2021. <https://euobserver.com/justice/151063>

<sup>100</sup> "No evidence of migrant pushbacks: EU border agency chief Leggeri" Accessed April 2, 2021. <https://www.france24.com/en/tv-shows/talking-europe/20210402-no-evidence-of-migrant-pushbacks-eu-border-agency-chief-leggeri>

<sup>101</sup> "EU refuses to approve Frontex's budget over human rights concerns" Accessed March 23, 2021. <https://www.aljazeera.com/economy/2021/3/23/eu-refuses-to-sign-off-on-frontex-budget-over-human-rights-issues>

<sup>102</sup> Renaud Dehousse, "Delegation of powers in the European Union: The need for a multi-principals model" *West European Politics* 31, no. 4 (2008): 800.

### Conclusion

If one tries to define the European Union as a polity, it can be argued that the Union does not resemble a Westphalian nation-state but looks more like an empire, specifically a liberal one. Unlike a nation-state or a federation of states, the EU does not have clear borders, its policies are not justified with reference to a particular national interest and the Union has different centers and peripheral actors in different policy fields. As a liberal empire, the EU has different zones of influence in its immediate neighborhoods depending on the policy field and its imperial policies are justified with liberal norms such as the promotion of human rights, enhancing free trade or protecting the four freedoms enjoyed by the European citizens.

The imperial characteristics of the EU and the accompanying “liberal paradox” are even more clear when the border management and asylum policies of the Union is considered<sup>103</sup>. These policies create peripheries inside the Union as it was discussed with the Dublin system of 1990 pushing the frontline states (Greece, Italy and Spain) into a peripheral status during the Migration Crisis in 2015. In addition, the justifications for the policies are clearly normative as shown with the incorporation of international organizations and their liberal norms to the partnerships with the third countries and to the structures of European agencies as the examples of Belarus and Frontex demonstrate respectively. Lastly, resulting from the nature of its borders, the EU’s migration governance is increasingly non-territorial and extends to the external peripheries of the Union. This externalization process might take various forms as discussed above such as the Mobility Partnerships within the broader framework of the ENP, working arrangements with Frontex in the Mediterranean or bilateral initiatives and projects specifically aimed at cooperation in border management and asylum policies.

There is a cost for these pragmatic externalization policies of the EU, however. The dependence of an empire to its external peripheries in the protection of its borders “allow peripheries to have a considerable influence” on the imperial center<sup>104</sup>. Prominent examples to this situation in the case of the EU are the leverage gained by Turkey in its bilateral relations with the Union after the Migration Crisis in 2015 and the two tracked relations with

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<sup>103</sup> James F. Hollifield, 1992. *Immigrants, Markets and States*. Boston: Harvard University Press.

<sup>104</sup> Zielonka, “Empires and the Modern International System.” 513-514. See also Browning and Christou, “The constitutive power of outsiders” 109-118.

Belarus: one based on sanctions for the country's poor democratization record and another based on pragmatic cooperation in the migration-security field. Therefore, while externalization serves the immediate internal security interests of the EU by transferring its migration governance and border control responsibilities to its neighbors, externalization also negatively affects the EU's structural foreign policy aim of democratizing and, in the long term, stabilizing its neighborhood.

Overall, as one of its imperial characteristics, today the borders of the EU are increasingly externalized through various policies and initiatives. This could be seen as an imperial response to the escalating levels of global migration since the EU, as a liberal empire, has a highly developed and human rights centered asylum system and at the same time experiencing a rise in restrictive and Eurosceptic political voices internally. Thus, the externalization of migration governance provides an escape route to the EU since it both limits immigration, which relatively silences Eurosceptic voices, and at the same time preserves the liberal asylum system of the EU as it is.

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