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Audit preview

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Frontex

January 2020

The Schengen Acquis established an area without internal border checks, and a single EU external border. Since its incorporation into EU Law in the Amsterdam Treaty, the objective of the EU has been to develop and implement European integrated border management at national and EU level, in order to create an area of freedom, security and justice.

Frontex, the European Border and Coast Guard Agency, is a pivotal element in achieving integrated border management of the EU's external frontiers. Frontex's role, budget and resources have grown progressively since its creation, and new legislation further extending its mandate entered into force on 4 December 2019.

This audit will examine whether Frontex has been effective in supporting the implementation of the EU's integrated border management so far.

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Contents

Background	4
Activities and responsibilities	7
Challenges	9
Financing	10
Focus of the audit	10

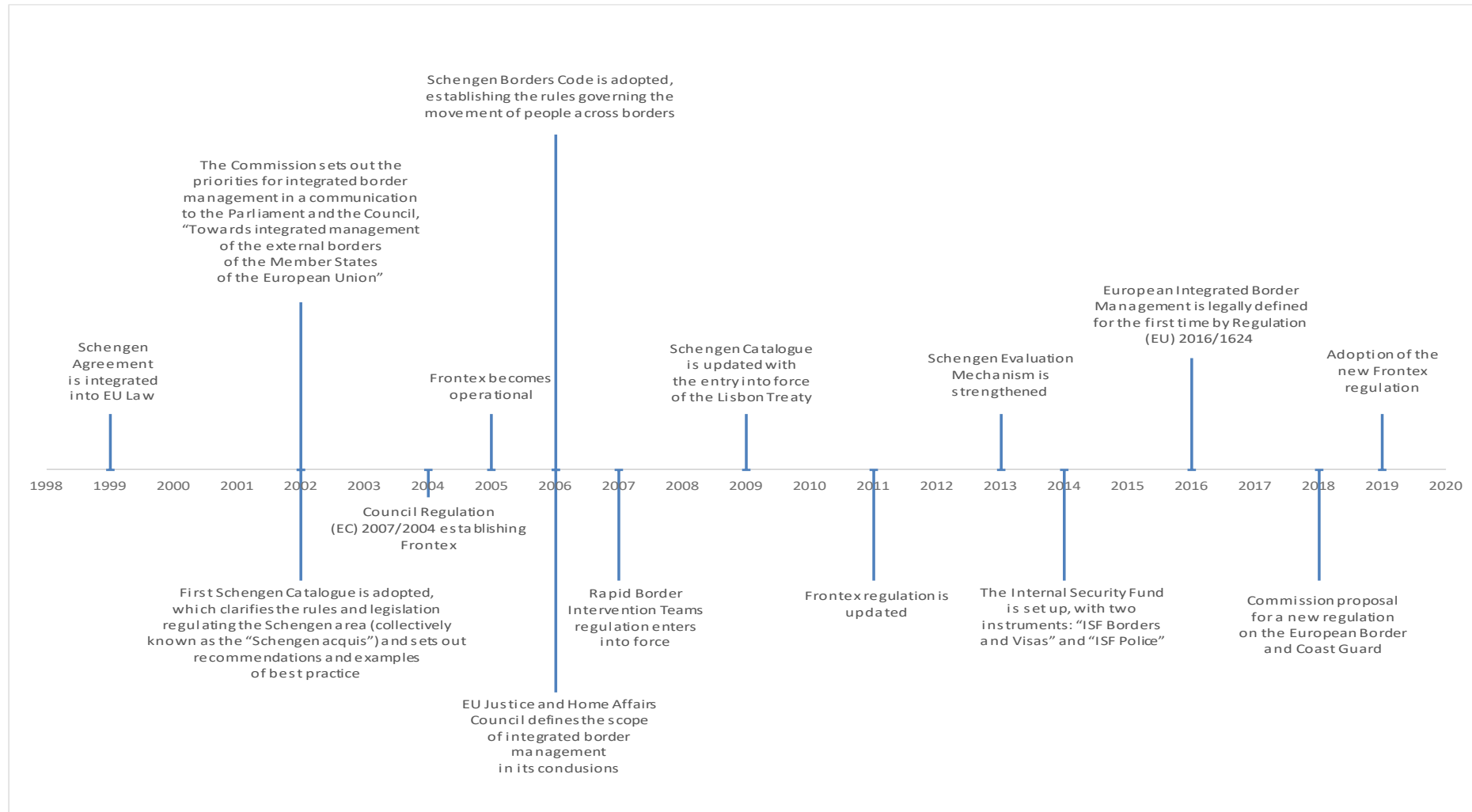
Background

The Schengen Acquis (i.e. the Schengen Agreement and the Convention for its implementation) established an area without internal border checks, and a single EU external border.

A single area without internal border checks requires a common policy on external border management. To that end, Article 77(1) of the Treaty on the Functioning of the European Union set the objective of introducing an integrated border management system for the external border that would allow the free movement of people within an area of freedom, security and justice without internal frontiers while addressing serious cross-border threats (e.g. crime) and challenges (e.g. migration)¹.

A crucial step towards achieving the common integrated border management system was the establishment of the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (or “Frontex”, from the French “Frontières extérieures”) in 2004 (see [Figure 1](#)).

Figure 1 – Significant milestones in EU integrated border management



Source: ECA.

During the migration peak of 2015, the EU institutions became concerned that Frontex's limitations left it ill equipped to handle the migration crisis. Specifically, the Agency had a limited mandate to support Member States in securing their external borders, insufficient staff and equipment, and no authority to conduct border management or search and rescue operations, as well as being dependent on voluntary contributions of resources from Member States. In his 2015 State of the Union address, the then Commission President proclaimed the need to significantly strengthen Frontex to make it a fully operational European border and coast guard system.

On 15 December 2015, the Commission announced an important set of measures, known as the "Borders Package", comprising 13 legislative acts strengthening management of the EU's external border and better protecting the Schengen area. The package's main initiative was the proposal for a regulation establishing a European Border and Coast Guard. Under pressure from the European Council and the European Parliament, the legislation was negotiated very quickly and, on 14 September 2016, Regulation (EU) 2016/1624 on the European Border and Coast Guard was adopted.

Article 4 of the 2016 Regulation set out the components of integrated border management for the first time in legislative form (see [Box 1](#)).

Box 1 – Components of integrated border management

- (a) Border control, including measures to facilitate legitimate border crossings and, where appropriate, measures related to the prevention and detection of cross-border crime, such as migrant smuggling, trafficking in human beings and terrorism, and measures related to the referral of persons who are in need of, or wish to apply for, international protection
- (b) Search and rescue operations for people in distress at sea
- (c) Risk analysis for internal security and of the threats that may affect the functioning or security of the external borders
- (d) Cooperation between MSs supported and coordinated by the Agency
- (e) Cooperation among the Member States authorities responsible for border control and among the relevant Union institutions, bodies, offices and agencies;
- (f) Cooperation with third countries, in particular neighbouring countries and countries of origin and/or transit for irregular migrants
- (g) Technical and operational measures to address illegal migration and to better counter cross-border crime

- (h) Return of third-country nationals subject to return decisions
- (i) State-of-the-art technology
- (j) A quality control mechanism to ensure the implementation of border management legislation
- (k) Solidarity mechanisms, in particular funding instruments

Source: Article 4 Regulation (EU) 2016/1624.

The 2016 regulation significantly extended Frontex's mandate, authorised the "new" agency to recruit 1 000 people by 2020, and increased its subsidy from the Commission from €238 million in 2016 to €322 million in 2020.

Activities and responsibilities

Frontex shares responsibility for integrated border management in the EU with the relevant national authorities². Frontex is required to establish a technical and operational strategy in line with Article 4 of 2016 Regulation with which the national authorities should then align their own³.

Frontex carries out four primary activities in implementation of integrated border management:

- situation monitoring;
- risk analysis and vulnerability assessments;
- operational response;
- return operations.

Situation monitoring

With so many Member States and partners involved, and over 42 000 km of coastline, almost 9 000 km of land borders and around 300 international airports to cover, information management is a key aspect of EU border management. In view of this, the Frontex Situation Centre was set up, tasked with managing the huge flow of information in order to provide an up-to-date picture of Europe's external borders and the migration situation.

As a central point of contact and information exchange, the Frontex Situation Centre plays a vital role in crisis response and issues early alerts. Its processing of incoming data to generate a picture of the situation on the ground also supports joint operations and strategic decision-making.

Risk analysis and vulnerability assessments

Frontex collects a wide range of data from Member States, EU bodies, partner countries and organisations, as well as from open sources, on the situation at Europe's borders and beyond. This data is then analysed to identify the key factors influencing the situational picture.

An essential feature of Frontex's risk analysis is the Common Integrated Risk Analysis Model. Also key are the strategic risk analysis networks, of which six are currently active⁴, through which Frontex exchanges information and statistics with Member States and third-country border control authorities.

Frontex performs vulnerability assessments to evaluate Member States' capacity to manage their borders. Specifically, the Agency monitors and assesses Member States' technical equipment, systems, capabilities, resources and infrastructure, and determines whether they have adequately skilled staff.

Operational response

Frontex's main forms of operational response are "joint operations" at external borders and "rapid border interventions". Both aim to control illegal immigration, combat cross-border crime and enhance coast guard cooperation.

Frontex conducts these operations by drawing upon experts and equipment pooled from Member States, the Schengen Associated Countries and its own resources.

Rapid border interventions, introduced by Regulation (EC) 863/2007, provide immediate technical and operational assistance, for a limited period, to a Member State that is under exceptional pressure at its external border, for example from especially large numbers of non-EU nationals trying to enter its territory illegally.

By contrast, a Member State may request that Frontex launch a joint operation to help it face both present and future threats and challenges (such as illegal immigration or cross-border crime), or to receive technical and operational assistance in controlling its external borders.

Return support

With the enhanced mandate given to Frontex by Regulation (EU) 2016/1624, the Agency has become an important actor in migration enforcement on the European stage.

Frontex is responsible for the technical and operational coordination of return operations, including voluntary departures. In practice, Frontex offers support in organising, implementing, and financing or co-financing return operations organised by individual Member States.

Challenges

In September 2018, the Commission set out its vision for a strengthened and fully operational European Border and Coast Guard in a proposal for a new regulation on the European Border and Coast Guard, arguing that “the original regulation had entered into force in record time after the 2015 migration crisis, leaving “more [...] to be done to ensure, as part of a comprehensive approach on migration, the effective control of EU external borders”⁵.

For the next multiannual financial framework 2021-2027, the Commission has proposed:

- to create a standing corps of 10 000 border guards, made available by Member States, with executive powers to provide on-the-ground support;
- to increase Frontex’s EU staff to 3 000 people by 2025;
- to provide a total EU contribution of over €11 billion for the period 2021-2027 to finance setting up the standing corps, the purchase of new equipment and the performance of additional tasks;
- to provide financial support to equip and train the national component of the European Border and Coast Guard in the Member States, with the aim of enhancing their operational capacity, reinforcing existing tools and developing EU-wide information systems on borders, migration management and security.

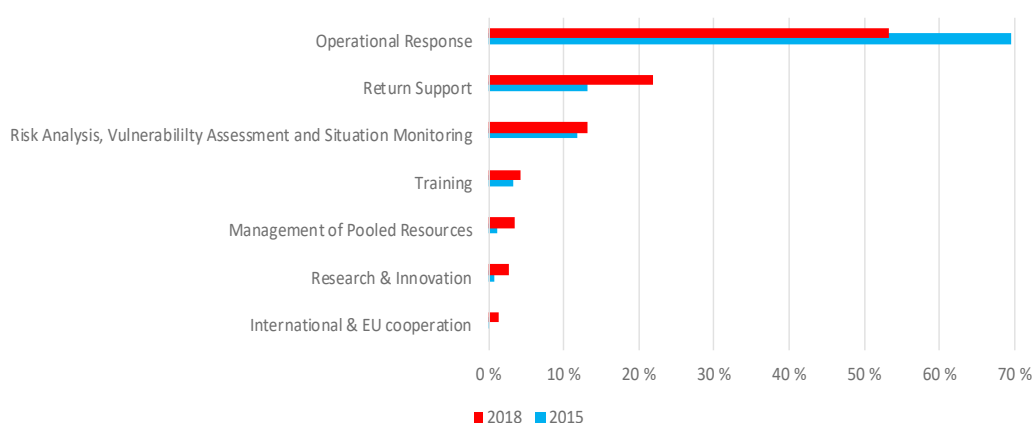
The new regulation was adopted in November 2019 and entered into force on 4 December 2019.

Financing

In view of its autonomy, Frontex is granted a stand-alone budget whose revenue comes mostly from an EU contribution.

In the period 2015-2018, the EU contribution to Frontex's budget amounted to €0.9 billion, representing 93 % of Frontex's funding⁶. The EU's annual contribution has more than doubled from €137 million in 2015 to €281 million in 2018 (see [Figure 2](#)).

Figure 2 – Evolution of operational costs



Source: ECA based on Annual Accounts of Frontex.

With the new regulation, the total budget for Frontex's existing and future mandate will exceed €1 billion for the 2019-2020 period and be up to €11 billion for the 2021-2027 period.

Focus of the audit

In the audit on Frontex, we will examine whether its primary activities effectively support the implementation of EU integrated border management. In particular, we will examine whether:

- Frontex's situation monitoring of the EU's external borders enables swift and well-targeted responses to border incidents;
- Frontex's risk analyses and vulnerability assessments are useful tools for protecting the EU's external borders; and

- Frontex's operational response is contributing to the development of EU integrated border management.

Since we identified the issues underlying these areas of enquiry before the audit work commenced, they should not be regarded as audit observations, conclusions or recommendations.

The audit will not cover the following:

- the external dimension of the Agency's activities;
- cooperation with other European agencies;
- return support (which was the subject of special report 24/2019 and will be audited again in the near future);
- the quality control mechanism to implement EU legislation;
- the EU-funded solidarity mechanism.

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- ¹ Preamble (2) of Regulation (EU) 2016/1624 of the European Parliament and of the Council of 14 September 2016 on the European Border and Coast Guard.
 - ² Article 5 of Regulation (EU) 2016/1624.
 - ³ Article 3 of Regulation (EU) 2016/1624.
 - ⁴ Frontex Risk Analysis Network, the European Document Fraud Risk Analysis Network, the Western Balkans Risk Analysis Network, the Eastern European Borders Risk Analysis Network, the Turkey-EBCGA Risk Analysis Network, and the Africa-EBCGA Intelligence Community.
 - ⁵ Proposal for Regulation of the European Parliament and of the Council on the European Border and Coast Guard, COM(2018)631 final, 14 February 2018.
 - ⁶ The Schengen Associated Countries provided 6 % of Frontex's funding over this period, i.e. €60 million.