Crisis, migration and the consolidation of the EU border control regime

Giuseppe Campesi

Department of Political Sciences,
'Aldo Moro' University of Bari, Italy
Email: giuseppe.campesi@uniba.it

Abstract: In this paper I will try to understand in what sense it is possible to talk of a migrant or refugee 'crisis' in the EU. I will also consider the consequences a narrow interpretation of the 'crisis' in terms of increasing migratory pressure has had for the evolution of the EU border control regime. I will first describe the essential features of this border control regime. I will show how the intense public debate on the 'crisis' has prevented public opinion from seeing how its root causes were not to be found in exogenous factors hitting the EU from the outside, but, rather, lie in the intrinsic weaknesses of the EU border control regime which the political instability in the Mediterranean region has brought to light. I will then look at the EU response to the crisis, showing how this has moved in the direction of an attempt to restore the EU border control regime. Finally, I will argue that the alleged 'crisis' has brought about a further consolidation of the uneven political geography of the EU borders.

Keywords: crisis; emergency; border control; EU migration policies; hotspot approach; Frontex.

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Biographical notes: Giuseppe Campesi is currently a Senior Lecturer and Aggregate Professor (tenured) in Law and Society at the Department of Political Sciences of the 'Aldo Moro' University of Bari (Italy), his research cut across different disciplines focusing mainly on contemporary social theory, critical legal studies, critical security studies, border controls and migration policies.

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1   Introduction

During last two years, the concept of 'crisis' has been abused. A new 'migrant crisis', or 'refugee crisis' has followed the 'economic crisis' that shook Europe in previous years, making this one of the most recurring concepts in public debate. But what is meant by

'migrant crisis' or 'refugee crisis' is not entirely clear, and the variation over time in the use of the different labels is indicative of possible different readings of the phenomenon. While a 'refugee' is seen as a victim in need of protection, the right to mobility of a 'migrant' is always questioned and thus the label 'migrant crisis' has been used to cast doubts on the rights of those arriving in Europe to cross European Union (EU) borders to claim asylum. The ongoing crisis at Europe's borders can be seen as an 'epistemic crisis', signalling the contradictions and fluidity in the language and labels used when discussing human mobility and its governance.

'Crisis' is a catch-all word, a label that often confuses and obfuscates rather than explains events. Especially in political theory, the concept has never achieved a clear meaning (Koselleck and Richter, 2006). It can be used to refer to the escalation of military tensions, to fundamental changes to a constitutional order, or even to a simple change in government. In this context, the 'crisis' is a turning point. Generally, the label denotes a situation that breaks with routine and calls for immediate action. The occurrence of a crisis calls for immediate judgement and decision making, but in circumstances with limited room for manoeuvre, political actors are required to make decisions about the appropriate course of action, which might determine the survival of the political system. 'Crisis' may be considered almost a synonym for 'emergency'. By labelling a situation as a 'crisis' one creates alarm, suggesting the existence of a threat to the ordinary lives of the populace that needs to be addressed by enacting exceptional measures.

The political response to an emergency can however follow one of two opposed directions (Agamben, 2005). It may point to the conservation and consolidation of the legal and political order threatened by a 'state of crisis', or it may open a space for political change. And here probably lies the main difference between the meaning of 'crisis' and that of 'emergency'. Where the concept of 'emergency' calls for an essentially conservative political response, which generally also implies a partial suspension of legal guarantees and departure from ordinary political decision-making procedures, the concept of 'crisis' in its original meaning incorporates the idea of both a necessity for and the imminence of change. A state of crisis is usually considered as something that may open a period of political upheaval, where change may be more or less rapid depending on whether the crisis presents itself in an acute or chronic form. While an emergency is always negative and dangerous, a political crisis may often be considered as opening a positive window of opportunity.

In this paper I will try to understand in what sense it is possible to talk of a migrant or refugee 'crisis' in the EU. I will also consider the consequences a narrow interpretation of the 'crisis' in terms of increasing migratory pressure has had for the evolution of the EU border control regime. I will first describe the essential features of this border control regime. I will show how the intense public debate on the 'crisis' has prevented public opinion from seeing how its root causes were not to be found in exogenous factors hitting the EU from the outside, but, rather, lie in the intrinsic weaknesses of the EU border control regime which the political instability in the Mediterranean region has brought to light. I will then look at the EU response to the crisis, showing how this has moved in the direction of an attempt to restore the EU border control regime. Finally, I will argue that the alleged 'crisis' has brought about a further consolidation of the uneven political geography of the EU borders.

2   The EU border control regime

Over the last 20 years, the EU has built up a complex multilateral border regime which may be considered as a laboratory in which an experiment in the development of a true post-national border control model has been undertaken. As has been written by the European Commission in one of the key policy documents on the EU border control strategy, "the managers and staff of [national border police forces] need to develop an awareness that they are in fact now guarding the borders of the member states of the EU. They should, therefore, see their activity as a contribution to a European check and surveillance network [European Commission, (2002), p.9]." In the commission's view, none of the EU member states may be considered as exercising full sovereignty over their own borders, as they are increasingly being asked to manage them by taking into account collectively defined legal standards and policies.
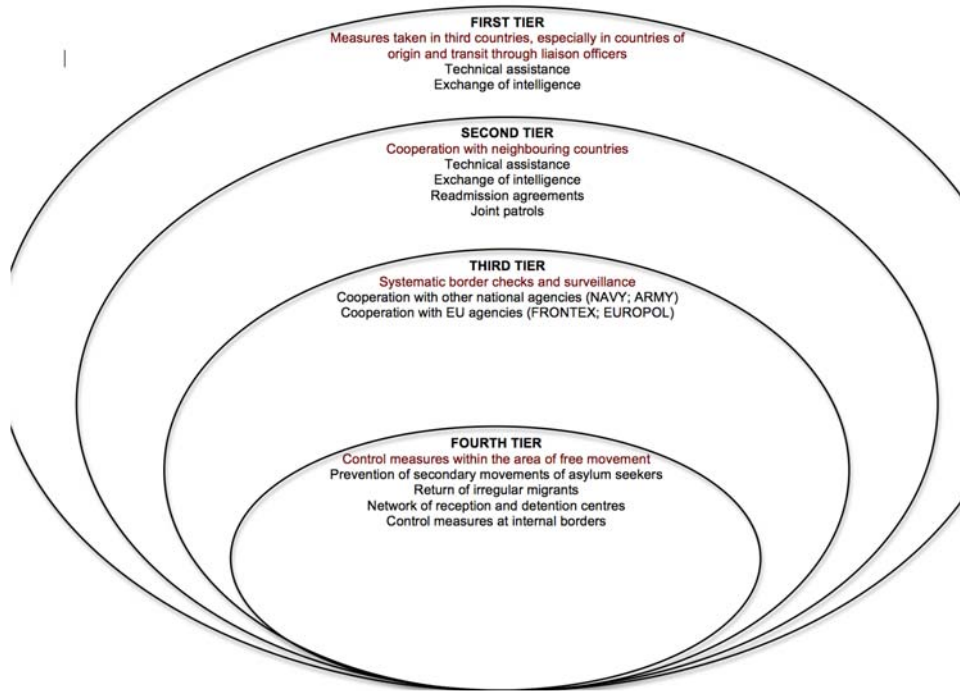
As regards the relevant legal standards, these have been defined and redefined over the last 20 years and they now encompass a wide range of different pieces of legislation (essentially EU directives and regulations, plus a number of bilateral and multilateral agreements with third countries), some of which strongly affect national sovereignty with regard to border control and migration policies[1]. As regards the policy framework, the key has been the development of the concept of 'integrated border management' (IBM), a concept that has never been clearly defined [Marenin, (2010), p.65; Peers, (2011), p.157], despite the fact that in 2009 it was included in Article 77(1)(c) of the treaty on the functioning of the European Union (TFEU). The clearest definition of 'IBM' remains that included in the council conclusions on IBM (European Council, 2006), and subsequently developed in the Schengen catalogue of recommendations and best practices (Council of the European Union, 2009). According to this definition, 'IBM' encompasses the following elements:

a   border control as defined in the Schengen borders code, including relevant risk analysis and crime intelligence

b   detection and investigation of cross-border crime in coordination with all competent law enforcement authorities

c   coordination and coherence of the activities of member states and institutions and other bodies of the EU

d   inter-agency cooperation for border management and international cooperation

e   the four-tier access control model (measures in third countries, cooperation with neighbouring countries, systematic border checks and surveillance, and control measures within the area of free movement, including in relation to return) [European Council, (2006), p.2].

This definition of 'IBM' is built on three essential dimensions relating to *what* should be done (border control, risk analysis, crime intelligence, and detection and investigation of cross-border crime), *how* it should be done (through coordination, coherence, inter-agency cooperation and international cooperation), and, especially, *where* it should be done. Thus, the four-tier access control model (see Figure 1), developed over the years

by the EU is key to the IBM concept. The model essentially attempts to redefine the political geography of border control along different levels of action, and involves both national and supranational actors and agencies.

Figure 1 The four-tier access control model (see online version for colours)

FIRST TIER
Measures taken in third countries, especially in countries of origin and transit through liaison officers
Technical assistance
Exchange of intelligence

SECOND TIER
Cooperation with neighbouring countries
Technical assistance
Exchange of intelligence
Readmission agreements
Joint patrols

THIRD TIER
Systematic border checks and surveillance
Cooperation with other national agencies (NAVY; ARMY)
Cooperation with EU agencies (FRONTEX; EUROPOL)

FOURTH TIER
Control measures within the area of free movement
Prevention of secondary movements of asylum seekers
Return of irregular migrants
Network of reception and detention centres
Control measures at internal borders

With this general framework in mind, we can see the complex geopolitics of the Euro-Mediterranean border control regime, which essentially consists of three 'regional formations' (Mountz and Loyd, 2013) with border controls implemented by the border agencies of the main member states in the region (see Figure 2). National border agencies are also supported by the EU's Frontex agency, which over the years has developed common operational guidelines and encouraged member states to follow certain standards. Another crucial element in the geopolitics of the Euro-Mediterranean border control regime is cooperation with neighbouring countries. This cooperation has essentially developed at the bilateral level, although the EU has over the years sought to incorporate the network of bilateral agreements into the wider framework of its neighbourhood policy. In describing this set of relationships between the main actors of border control, Paoletti and Pastore have spoken of 'supralateralism'. According to their view, cooperation is not developed merely at state level, nor at a genuinely multilateral level, but involves a kind of triangulation between different actors negotiating their own bilateral relations while taking into account relevant relationships with other partners [Paoletti and Ferruccio, (2010), p.5].

Figure 2   Euro-Mediterranean local border control regimes (see online version for colours)
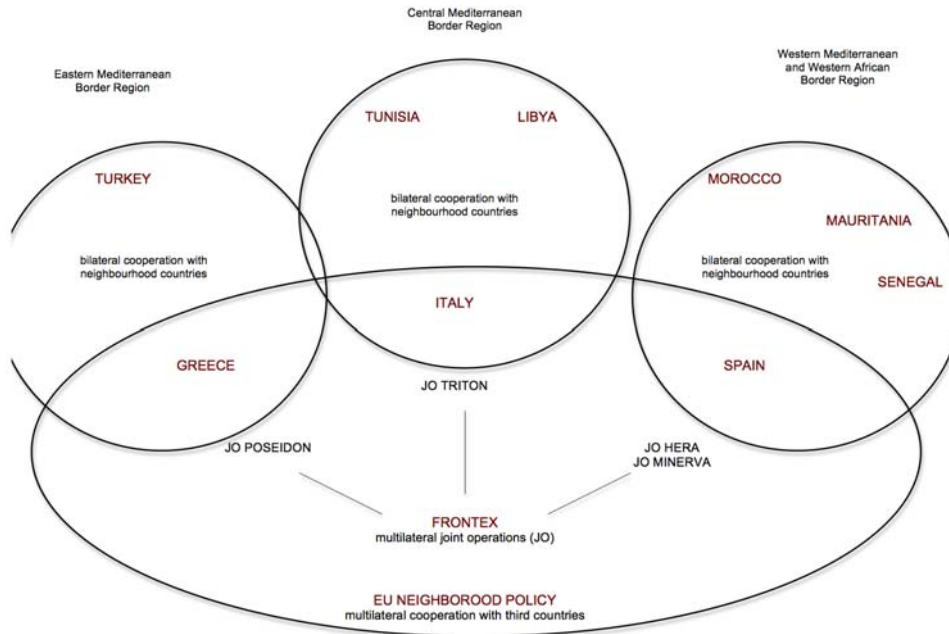
EU border control policies have thus been developed and implemented in the context of such regional formations and, while the long-term overall political aim has been that of building a homogeneous border space that is managed according to common standards, they seems nonetheless to give rise to the emergence of different 'local border control regimes' which are determined by three main factors on which the quality of border control largely depends:

a   the geo-morphology of the different border regions

b   power relations between neighbouring destination and transit countries

c   the infrastructural capacities of the main member states undertaking EU border functions in the region [Marenin, (2010), p.114; Kasparek and Wagner, (2012), p.173].

3   The crisis of the EU border control regime

The EU IBM system is therefore entangled in complex geopolitical formations that are constantly redefined by the attempt to control mobility and by the corresponding resistance of migrants who, in response to increased surveillance, constantly seek new routes into and across Europe, thus shifting the points of 'crisis' as local border control regimes consolidate. In recent years, the main migration routes have clearly moved eastward, until the so called migrant or refugee 'crisis' erupted in 2015 at the Eastern Mediterranean route, with repercussions in the Western Balkan route (see Table 1).

Table 1   Border crossings by routes

	Western route	*Central Mediterranean route*	*Eastern Mediterranean Route*	*Western Balkan route*
2006	39,180	22,194		
2007	18,656	21,867		
2008	13,424	39,726		
2009	8,886	11,043	39,975	3,089
2010	5,199	4,450	55,688	2,371
2011	8,788	64,261	57,025	4,658
2012	6,571	15,151	37,224	6,391
2013	7,121	45,298	24,799	19,951
2014	8,118	170,664	50,834	43,357
2015	8,038	153,946	885,386	764,038
2016	10,902	181,126	182,534	122,779

Source: Compiled by the author using data from Frontex's annual risk analysis

But what do we mean when we talk about a migrant or refugees crisis? What are we referring to exactly? As already suggested, 'crisis' refers to a turning point, to something that breaks the routine and is an unexpected or unprecedented event. If understood in these strict terms, the concept of 'crisis' is well-suited for expressing what happened in 2015, when the number of people reaching EU shores suddenly increased. However, from Table 1 it is also evident that this acute 'crisis' in the history of migration by sea in the Euro-Mediterranean region occurred within a context of an overall increase in migratory movements which can be traced back to 2011.

The concept of 'crisis' is often abused in relation to migration policies, as national governments and supranational actors often use the term in order to justify the adoption of exceptional measures or a different allocation of public resources. This was the case in 2006, during the *crisis de la pateras*, when the Spanish government called for support from the EU which led to the launch of the first Frontex operational activities (Carrera, 2007); in 2010 when the increase in border crossings at the Greek land border with Turkey triggered the launch of the first, and to date only, Frontex 'rapid border intervention' (Carrera and Guild, 2010); and again in 2011 when Italy declared a 'state of humanitarian emergency' at the border, and obtained technical support from the EU with the launch of the Frontex-led joint operation *Hermes* (Campesi, 2011). EU migration policies have always been in permanent 'crisis', and the 'state of crisis' with regard to illegalised migration across the EU's frontiers can be considered the norm rather than the exception [New Keywords Collective, (2016), p.10].

Another issue is that of the perspective from which one looks at the 'crisis'. Within the framework of forced migration studies, the concept of 'crisis' is currently used to refer to phenomena triggering migratory movements. 'Crisis' here implies acute pressure on the person or group that moves, rather than the consequences that the movement of people triggers in destination countries (McAdam, 2014). On the contrary, in the recent debate on the migrant or refugee 'crisis', the focus has been on Europe and the supposed destabilising effect that the increase in the number of arriving migrants and refugees was

likely to have, rather than on the endemic state of political and civil unrest which is afflicting the regions immediately surrounding the Mediterranean (Pallister-Wilkins, 2016; New Keywords Collective, 2016).

The use of the term 'crisis', however, has had a powerful depoliticising effect, obscuring the deep roots of what was happening at EU borders. In line with the prevailing interpretation of the concept, the migrant or refugee 'crisis' has been presented as a phenomenon triggered by predominantly *exogenous factors* over which the EU had no control or responsibility. Europe has been confronted with a 'crisis' that originated 'elsewhere', whose roots lie "in the incapacity or incompetence of (postcolonial) 'others' to adequately govern themselves [New Keywords Collective, (2016), p.12]." This has served to obscure the impact of *endogenous factors*. From my point of view, the so called migrant or refugee 'crisis' has been essentially driven by the many contradictions affecting the EU border regime, rather than by the rising numbers of migrants reaching EU shores. These contradictions were essentially related to the intrinsic legal and political weaknesses of the four-tier access control model.

One of the political weaknesses of the EU border control strategy is linked to the fact that its effectiveness is largely based on cooperation with neighbouring third countries. This cooperation had always been quite complicated, with countries such as Libya and Turkey pursuing unscrupulous migration-related diplomacy (Wolff, 2008; Geddes, 2009; Andrijasevic, 2010; Paoletti and Ferruccio, 2010). Moreover, the Arab Uprisings led to regime changes in many Mediterranean countries, and in its aftermath the EU struggled to find new reliable partners in the region (Tömmel, 2013; Schumacher, 2015). Indeed, EU countries have been forced to re-internalise border controls while trying to establish a new basis on which to rebuilding their regional strategy for the external governance of migration.

The fact that the regime was largely built on a (more or less explicit) precarious balance between central and northern EU countries on the one side, and frontline EU countries on the other side has also resulted in serious political weakness. The latter received financial compensations and technical support for acting as EU gatekeepers, while the former tolerated a certain degree of secondary movements of migrants not properly identified and fingerprinted according to the EU rules. The combination of increasing numbers of refugees triggered by the Arab Uprisings and the tight budgetary constraints imposed on southern frontier countries contributed to the increase in political salience of the burden-sharing issue. The first diplomatic tensions had already emerged in 2011, when Italy granted residence permits for humanitarian reasons to all Tunisians landing on its shores (Zaiotti, 2013; Campesi, 2011), but the political and diplomatic balance definitely broke down in 2014 and 2015. Facing an increasing number of arrivals by sea, Greece and Italy began overtly ignoring the 'first-country-of-entry' principle of the 'Dublin system' and allowed migrants to move on to their preferred EU countries of destination (Trauner, 2016; Den Heijer et al., 2016).

The European border regime had, however, also shown many weaknesses from a legal perspective, with the European 'supreme courts' already undermining some of its foundations.

The first breach in the regime was opened by the Court of Justice of the EU which delivered a judgement in the case of an Afghan asylum seeker, who was about to be deported to Greece from Belgium in line with the 'Dublin rules'. The court maintained that member states may not transfer an asylum seeker to another member state if they are aware of "systemic deficiencies in the asylum procedures and in the reception conditions"

in that country of destination[2]. This ruling, which was subsequently confirmed by a similar ruling issued on January 2011 by the European Court of Human Rights[3], resulted in a (temporary) suspension of 'Dublin transfers' of asylum seekers to Greece, giving rise to what some scholars called 'the other Greek crisis' (McDonough and Tsourdi, 2012). When other judicial cases also raised questions about the Italian reception system[4], it seemed that the European 'supreme courts' were about to fundamentally undermine one of the main foundations of EU asylum and migration policies.

The second breach was opened by the European Court of Human Rights, with its ruling in the Hirsi case[5]. The Strasbourg Court maintained that during a number of border operations carried out in cooperation with the Libyan authorities, Italy had violated the *non-refoulement* principle by diverting migrants back to Libyan shores. By blaming Italy for its cooperation with Libya, the European Court of Human Rights was at the same time implicating the whole EU strategy for extraterritorial border control. The controversy triggered by this unscrupulous cooperation with Libya forced EU institutions to revise and clarify the rules of engagement regulating sea border patrols (Slominski, 2013). This led to the enactment of regulation (EU) No. 656/2014, which at Article 4.1 states that "no person shall, in contravention of the principle of *non-refoulement*, be disembarked in, forced to enter, conducted to or otherwise handed over to the authorities of a country where, inter alia, there is a serious risk that he or she would be subjected to the death penalty, torture, persecution or other inhuman or degrading treatment or punishment, or where his or her life or freedom would be threatened on account of his or her race, religion, nationality, sexual orientation, membership of a particular social group or political opinion, or from which there is a serious risk of an expulsion, removal or extradition to another country in contravention of the principle of *non-refoulement*."

The rising migratory pressure has interacted with this legal and political framework, triggering a number of reactions both at the national and EU level. In the post-*Hirsi* and post-Arab Uprisings political landscape, border patrols in the Mediterranean have essentially been turned into search and rescue operations, with thousands of rescued migrants then landed on EU shores (Carrera and den Hertog, 2015). This has put the reception systems of frontline southern member countries, already hit by tight budgetary constraints as a result of austerity policies, under further strain; the affected countries reacted by organising their own relief by not registering asylum seekers and stimulating their secondary movement. The political aim of this 'wave through approach', which amounted to an informal suspension of the EU asylum law, was clearly to open a discussion at EU level on the appropriate sharing of the burden among EU countries and a revision of the 'Dublin system'.

This triggered a reaction from central and northern EU countries, which reinstated controls at their internal borders with a sequence of unilateral measures forcing the interpretation of the rules set out in the Schengen borders code (Guild et al., 2015). Moreover, in spite of the fact that only 5 out of the 26 Schengen States reintroduced temporary controls at internal borders in response to the large number of refugees seeking asylum in the EU via Greece and Italy, and that those that reintroduced border controls did so in a very restrained manner, focusing on small stretches of their internal borders or specific crossing points, these unilateral actions became part of a 'border spectacle' (De Genova, 2013; De Genova et al., 2015) which raised the spectre in Europe of the 'end of Schengen'. In the face of the convulsive sequence of highly sensationalised border closures, the 'crisis' was no longer only about the mere increase in the numbers of

incoming migrants and refugees, but started to be described and perceived as an existential threat to the whole European integration project that required urgent action.

4   Consolidating the EU border control regime

This was the political climate when the commission started to implement its agenda on migration. This key policy paper had been originally enacted in May 2015 and was then followed by a number of subsequent policy initiatives that further developed the EU response to the 'crisis'. It included a number of proposals, some of which were intended as short-term responses and other (such as the reform of the common European asylum system, the creation of a shared management model for EU external borders, and a new model of legal migration into the EU) as actions to be discussed and implemented at a later stage [European Commission, (2015a), p.17]. Interestingly, all the most urgent short-term measures focused on reinforcing external border controls with the aim of restoring the EU border regime as soon as possible. The Commission's diagnosis was clearly focusing on the lack of control at the external border and the subsequent uncontrolled movement of migrants and refugees across EU territory. Thus, the main proposals put forward as a response to the 'crisis' focused on the need to consolidate the EU border regime by reinforcing the second, third and fourth tiers of control as envisaged by the EU IBM strategy which, according to the commission's judgement, had proved to be the weak link in the chain of controls embracing the EU internal area of free movement. To partially compensate for the heavy burden that the implementation of these reinforced border control measures would place on Italy and Greece, the EU agenda on migration also announced the enactment of an extraordinary relocation plan.

4.1   Cooperation with third countries

Since the first weeks of the 'crisis', the EU has sought to restart its dialogue with third countries of origin and transit. A summit with all African leaders was held in Valletta, Malta in November 2015, where the commitment was reaffirmed "to strengthen the fight against irregular migration in line with existing agreements and obligations under international law, as well as mutually agreed arrangements on return and readmission (European Council, 2015a)." The leaders adopted an action plan which, in addition to the traditional reference to actions aimed at eliminating the root causes of migration, called for a strengthening of reception capacities in countries of first asylum, transit and destination, and for an intensification of cooperation among border and law enforcement agencies in the fight against illegal migration (European Council, 2015b). The key to stemming the migratory flow was, however, seen in cooperation with Turkey, western Balkan countries, and Libya, which were considered to be the epicentre of the 'crisis'.

At the beginning of October 2015 the EU began complex negotiations with Turkey in order to obtain its cooperation in the surveillance of the Aegean Sea and in the readmission of migrants arriving on Greek shores. The EU-Turkey action plan agreed on 29 November 2015 offered substantial financial incentives to Turkey in exchange for its cooperation in stemming the flow of what were defined as "irregular movements across the borders [European Commission, (2015b), p.13]." In particular, the EU committed itself to establishing a 'facility for refugees in Turkey', and pooling the EU budget and member states' resources to provide a comprehensive and coordinated assistance package

to support the then two million Syrian refugees hosted in Turkey. An amount of €3 billion was envisaged for 2016/17 [European Commission, (2016a), p.4]. Under the auspices of Frontex, which had meanwhile posted a liaison officer in Ankara [Frontex, (2016a), p.16], Greece and Turkey stepped up their bilateral cooperation on border surveillance and readmission, and established a joint working group on migration [European Commission, (2016b), p.6]. This finally ushered in a new phase in EU-Turkey relations, embodied in the much criticised (Human Rights Watch, 2016a) EU-Turkey statement agreed on 18 March 2016, which built on the previous EU-Turkey joint action plan (European Council, 2016a). Under the statement, all new irregular migrants and asylum seekers arriving on the Greek islands from Turkey, and whose applications for asylum are declared inadmissible, should be returned to Turkey. In parallel, the EU has committed itself to resettling a Syrian from Turkey to the EU for every Syrian returned to Turkey from the Greek islands [European Commission, (2016c), p.2].

Figure 3 Consolidating the EU border control regimes: second tier actions (see online version for colours)
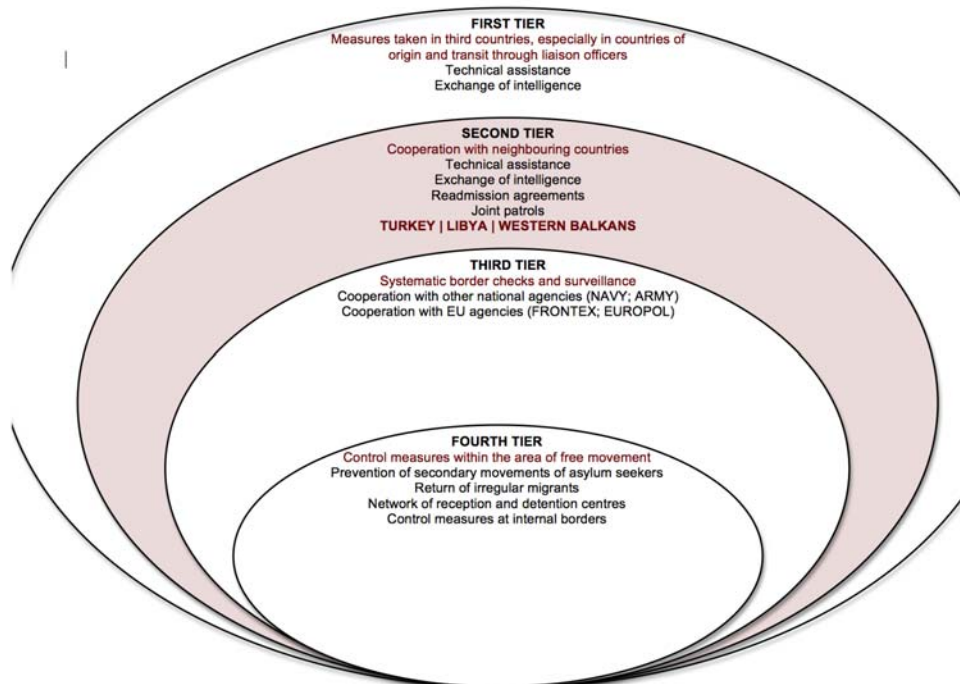
While the agreement with Turkey has been credited for the 'immediate' decrease in the number of daily arrivals on the Greek islands (European Commission, 2017a), many observers argued that the premise on which the deal was constructed – namely that Turkey is a safe place for refugees – was deeply flawed (Human Rights Watch, 2016a). Over the last few years Turkey had become one of the main refugee-receiving countries worldwide, hosting more than three million refugees and asylum seekers, but the protection offered varies significantly. While the country is the only European Council member to apply the 1951 refugee convention only to Europeans, Syrian refugees enjoy a temporary protection status which does not grant them full protection according to

international standards. Moreover, asylum seekers from other countries such as Iraq or Afghanistan do not even have access to temporary protection, and survive in precarious conditions (Leghtas and Sullivan, 2017).

One of the cornerstones of the EU-Turkey deal is the new border procedure according to which only vulnerable asylum seekers are permitted to seek asylum in Greece, while others should be deported back to Turkey. However, the 'admissibility test' is not producing the desired results. While the decision on the admissibility of the asylum claim should be taken within 15 days, including appeals, the Greek asylum appeal committees have refused to consider Turkey a safe country for asylum seekers, and have been considering most applications on their merits rather than declaring them inadmissible. The Greek government has tried to resolve the issue by changing the composition of the appeal committees (Kinsley, 2016), but at the end of 2017 the question of whether Turkey can be considered a safe third country remains controversial (Amnesty International, 2017a). According to the latest figures (UNHCR, 2017a), only 1,360 people have been returned to Turkey under the EU-Turkey statement, and none of the returned persons had their asylum claims considered inadmissible. [6]Returns from the Greek islands to Turkey thus remain much lower than the number of arrivals, continuously increasing the pressure on the Greek asylum system (Amnesty International, 2017b; Human Rights Watch, 2017a). In parallel, the number of Syrians resettled from Turkey under the 'one in, one out' framework has remained low in comparison with the number of refugees hosted by the country. As of September 2017, only 8,884 Syrians had been resettled, mainly to France, Germany, Italy, Sweden, Spain, Netherlands and Belgium, while 13 member states have not yet resettled any refugees from Turkey [European Commission, (2017b), p.9; European Commission, (2017c), pp.2–3].

In parallel with the negotiations with Turkey, the EU started a dialogue with Western Balkan countries in an attempt to stem the flow of migrants forcing their way across the so called Western Balkan route. At the end of October 2015 the commission organised a summit at which leaders from the western Balkans agreed on a 17-point plan of operational measures which was intended to stop the 'wave through' approach by re-applying national and EU border management legislation (European Commission, 2015c, 2015d). The subsequent attempts at 'filtering' the flow of migrants – allowing transit only to migrants originating from conflict areas (specifically Syrians, Afghans and Iraqis) starting from 19 November – resulted in the refused migrants being stranded along the route. This was most apparent at the FYROM-Greek border, where an informal settlement sprung up in the area of Idomeni on the Greek side of the border. From February 2016, a number of high-level meetings of the heads of the regional police services were organised, and additional restrictive measures were agreed following publication of the conclusions of the European Council of 18–19 February (European Council, 2016b). At the beginning of March 2016, Slovenia and Croatia announced the decision to close the transit corridor altogether, allowing only those who fulfilled the legal entry conditions or who expressed their wish to apply for asylum and remain in their territories to cross their borders. The implementation of these measures resulted in further border closures along the route, which consequently led to a growing number of people being stranded in Greece (Human Rights Watch, 2016b; UNHCR, 2016).

While European leaders were hailing the success of their strategy, announcing that "the irregular flow of migrants along the Western Balkan route has now come to an end" (European Council, 2016c), the combined effect of the agreements with Turkey and the closure of the Balkan route put Greece at risk of becoming a 'warehouse of souls', to

quote the concerns of the Greek Minister for Immigration Policy, Ioannis Mouzalas (Eszter, 2016). Meanwhile, a report published by UNHCR (2017b) has documented how, after the alleged 'closure' of the western Balkan corridor, the route followed by migrants through FYROM and Serbia, towards Hungary, Croatia and Romania, has become increasingly dangerous. Furthermore, the same report suggests that thousands of potential asylum seekers of Syrian, Afghan and Iraqi origin are being systematically pushed back and denied access to the asylum procedure. In this scenario, the steps taken by Hungary, which has adopted a controversial policy aimed at limiting the number of asylum seekers allowed to lodge applications each month via two 'transit zones', are particularly alarming. Asylum seekers are processed at the border with no access to the territory, and no possibility of moving onwards before the procedures are finalised (Frontex, 2017).

The last piece of the puzzle was the EU's attempt at strengthening surveillance of the Central Mediterranean route. Initially, this involved the launch of the naval operation *Eunavfor Med*[7] which, under the lead of the Italian navy, was supposed to complement Frontex's operations in the region with a particular focus on the fight against smuggling and trafficking. The operational plan was articulated into three different phases, which included the possibility of acting on Libyan territory if legal and political preconditions were met (EU External Action, 2015a). However, the civil disorder situation and the absence of a recognised authority in Libya had for a long time meant that it was hard to imagine any form of assistance to or cooperation with Libyan security forces. This was despite the fact that Italy had been striving to rebuild its cooperation on border control and migration with Libya since the beginning of the post-Ghaddafi era. Italy had indeed already signed a memorandum of understanding (MoU) with the National Transitional Council in 2012, providing for the exchange of liaison officers, a readmission agreement, training activities for the Libyan police and the restoration of detention centres built according to previous agreements [Ministero dell'Interno, (2013), p.27]. During this period, Italy had also on several occasions called for EU intervention in the country, which finally took place with the enactment of Council Decision (CFSP) 2013/233 launching the European Union Border Assistance Mission (EUBAM) to assist Libyan border police (EU External Action, 2015b). These efforts notwithstanding, the deteriorating security situation in Libya finally led both Italy and the EU to suspend all forms of cooperation pending the stabilisation of the country [Ministero dell'Interno, (2015), p.26].

The situation changed in March 2016, however, when a Government of National Accord led by Fayez Al-Serraj took office. Immediately after the government was installed, the EU began negotiations to obtain its consent to an extension of *Eunavfor Med* operations on Libyan territory, as well as the resumption of the technical assistance interrupted in 2013. Italy has strongly supported such diplomatic initiatives with the clear aim of concluding a cooperation agreement with Libya similar to the one signed between the EU and Turkey (Rettman, 2016). The negotiations focused on creating the preconditions necessary to operate in Libya with the cooperation of the new government's security forces. The emphasis has thus been placed on the need to rebuild Libya's security apparatus. As a result, in June 2016 *Eunavfor Med* was finally extended for one year, with a significant extension of its mandate as it was entrusted with the task of providing technical assistance to the Libyan coast guard and navy[8]. This function has been carried out in close cooperation with Frontex, which in the last months of 2016 began to train the Libyan coast guard (Frontex, 2016b). Meanwhile, Italy has made every

effort to reach an agreement with the new Libyan government, finally agreeing a much criticised MoU in February 2017 (Nielsen, 2017a).

The steps taken by the Italian government were greeted with great favour by EU partners (European Council, 2017), who immediately supported the Italian initiative by mobilising 1.8 billion Euros from the EU trust fund for Africa for cooperation projects with Libya. Key for the EU and Italian strategy was the strengthening of the operational capabilities of the Libyan coast guard, which was expected to play a central role in managing Libyan maritime borders and ensure safe disembarkation on Libyan soil of migrants intercepted and rescued at sea (European Commission, 2017d). Italy, in particular, by signing a new MoU with Libyan authorities aimed at resuming cooperation on security and irregular migration according to past bilateral agreements. Since February 2017, the Libyan coast guard has thus been supported by the Italian authorities in its effort to take control of its search and rescue region, intercepting vessels upon departure and diverting them back on Libyan soil, where migrants are to be hosted in 'reception' centres pending their repatriation or voluntary return to their country of origin.

While the drop in the numbers of people arriving on Italian shores from July to November 2017 has been attributed to a better and more aggressive Italian-trained Libyan coast guard turning back 60% of ships leaving the Libyan coastline (Wintour, 2017)[9], there has not been a significant increase in the number of migrants intercepted or rescued by the Libyan coast guard. According to UNHCR figures, the Libyan coast guard rescued and intercepted 15,238 refugees and migrants in different locations along the coast in 2017 (as of December 2017), with an increase of 6% in comparison with the same period in 2016 (UNHCR, 2017c, 2017d). These figures support the arguments of those who believe that the reduction in the number of arrivals is attributable to the agreements that the Italian government has concluded with the militias controlling the areas of Libyan territory where the smuggling industry is thriving, rather than to the actions of the Libyan coast guard (Walsh and Horowitz, 2017). In the meantime, however, the number of migrants and potential asylum seekers stranded in Libyan 'reception' centres has been increasing. UNHCR claims that there are 44,306 registered refugees and asylum seekers in Libya (UNHCR, 2017d), while the UN Office of the High Commissioner for Human Rights (OHCHR) reported that according to Libya's Department of Combating Illegal Migration (DCIM) 19,900 people were being held in facilities under its control in early November 2017 (OHCHR, 2017).

Given the alleged immediate impact on the flow of incoming migrants, many have drawn parallels between the EU-Turkey deal and the Italy-Libya agreement. Cooperation with Libyan authorities is, however, much more controversial. The MoU between Italy and Libya does not mention the right of asylum, thus treating all incoming migrants as 'economic migrants', nor does it envisage the possibility of opening 'humanitarian corridors' or legal and safe channels for those fleeing conflict in their countries. [10]Moreover, serious concerns have been raised about the links between armed groups, criminal groups, and different coast guard factions, as documented in a report published by a UN panel of experts monitoring the political transition in Libya (UN Security Council, 2017). The report also described numerous violations of fundamental rights suffered by migrants hosted in 'reception' centres after interception at sea. Similar concerns have been expressed by some NGOs (Human Rights Watch, 2017b; Amnesty International, 2017c) and especially by the OHCHR which, in light of the 'horrific' reception conditions in Libya, has defined the policy of assisting the Libyan coast guard

to intercept and return migrants in the Mediterranean as "an outrage to the conscience of humanity (OHCHR, 2017)."

Also in view of such controversies, the Council of Europe's Human Rights Commissioner, Nils Muiznieks, recently wrote to the Italian government asking for clarifications on the type of support being provided to the Libyan coast guard, and the nature of any safeguards that Italy may have in place to prevent intercepted migrants from being exposed to a risk of torture or inhuman treatment if returned to Libya (Council of Europe, 2017). The Italian government has apparently denied any direct involvement in the operations leading to the disembarkation of migrants on Libyan soil (Antonelli, 2017), however, the political question recently raised by the New York Times remains open: at what price are Italy and the EU "hiring as gatekeepers the very people who profit from extorting, starving, selling into slavery, torturing and raping migrants? (Walsh and Horowitz, 2017)."

4.2   Hotspot approach

One of the most important new features of the EU agenda on migration was the launch of the so called 'hotspot approach'. The main idea behind this was to target 'support' at member states by sending field officers of the relevant EU agencies (Frontex, European Asylum Support Office, Eurojust and Europol) to areas experiencing the greatest migratory pressure. These officers would form the so called 'migration management support teams', charged with the task of cooperating with local authorities in the 'screening' of incoming third country nationals, as well as in their possible relocation or repatriation (European Commission, 2015a). These support teams are coordinated by Frontex and have no direct executive responsibility for taking legal action relating to the status of third country nationals, which remains the exclusive competence of national authorities. Their role, however, is anything but minor, as they assist and eventually replace national authorities in carrying out the preliminary stages leading to the pursuit of such action. During these initial stages, besides being screened and registered, all third country nationals who can access the relocation procedure (see below) should be identified and separated from those who do not appear in clear need of protection and those who should be returned as irregular migrants.

Registering and fingerprinting all incoming migrants and asylum seekers remains a challenge as the authorities often face strong resistance. Thus, the successful implementation of the hotspot approach was supposed to rest on the possibility of resorting to coercive measures and, especially, to the detention of those arriving at the border (Neville et al., 2016). According to the commission's plans, all screening procedures should be carried out inside facilities defined as 'reception infrastructures' [European Commission, (2015e), p.5] to be opened in 'hotspot areas'. The EU agenda on migration and subsequent related policy papers offered very few pointers to the main features of these new reception infrastructures, apart from indicating that these would be the facilities where all screening and sorting procedures should be carried out by border authorities. Reading commission papers, however, one has the clear impression that the idea was to create secure facilities where those reaching EU territory would be detained for the entire duration of the registration process, or while awaiting execution of a removal order [European Commission, (2015f), p.8].

Figure 4   Consolidating the EU border control regimes: actions on the third and fourth tier
          (see online version for colours)
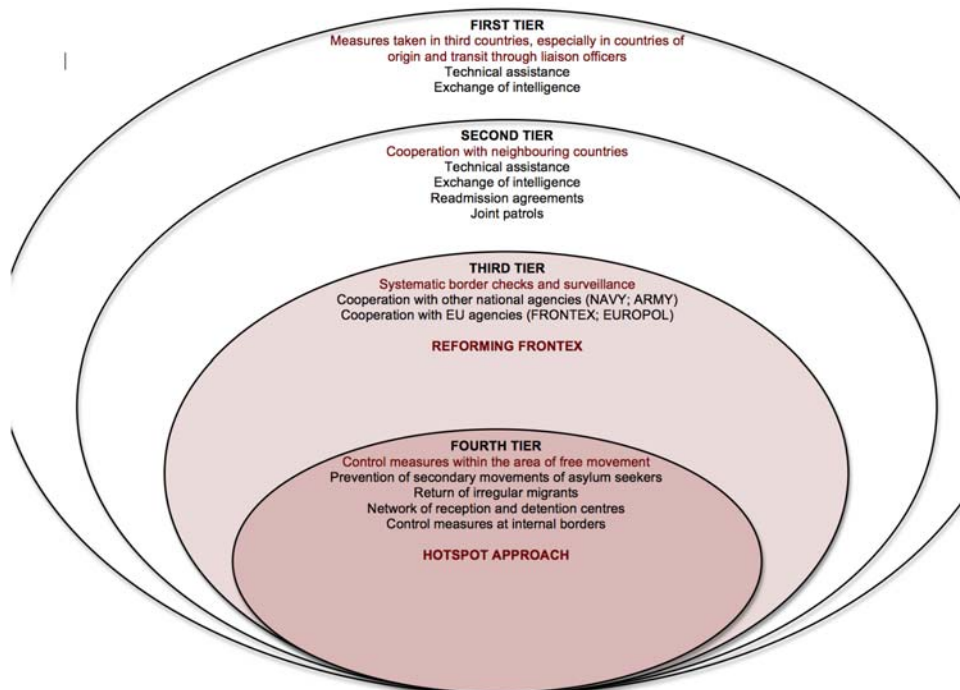
Under the policy framework outlined within the EU agenda of migration, Italy was forced to quickly open four detention facilities located near main disembarkation points, where 165 Frontex screening and debriefing experts were posted to assist Italian border police (European Commission, 2015g, 2016d). The roll out of the hotspot approach in Italy has, however, sparked harsh criticism, with many NGOs alleging that EU policies were leading to excessive use of coercive powers against third country nationals resisting fingerprinting and prolonged arbitrary detentions (Amnesty International, 2016). While the opening of a new hotspot in Messina (Sicily) was announced for September 2017, the reception capacity in hotspot facilities is still largely insufficient, and this can create a systemic pressure on the responsible authorities to accelerate border procedures in order to facilitate turnover.

The rollout of the hotspot approach in Greece has encountered similar difficulties, including a need to build hotspot processing centres from scratch and a number of shortcomings in infrastructure, staffing and coordination. In February 2016 not a single processing centre could be said to be fully operational, and the Greek government, under pressure from the commission, had mobilised the army to finalise the construction work and take the lead in the management of operations in hotspots [European Commission, (2016e), p.2]. At the end of 2017, the reception capacity of the hotspot facilities on Greek islands was still judged to be inadequate [European Commission, (2017e), p.4], but the situation was further aggravated by the restrictions of the EU-Turkey deal, according to which asylum seekers are not allowed to go to the Greek mainland while their case is being processed, thus resulting in increasing overcrowding of hotspot facilities (Amnesty International, 2017b).

The basic aim of the hotspot approach was to turn the reception systems of frontline member states into a border control device. Third country nationals entering EU space are now caught in a 'social sorting apparatus' that, while allowing the possibility of limited and strictly controlled movement to those eligible for relocation, traps the others in an archipelago of detention and reception facilities at Europe's territorial edges. But the objects of control here are not only migrants and refugees, but also the border authorities of frontline member states. Behind the rhetoric of solidarity, the hotspot approach is intended to ensure that the processing and fingerprinting of all incoming third country nationals is properly carried out by member state authorities, now acting with the 'support' of EU agencies' officials on the field.

4.3   Relocation

Measures aimed at strengthening external border controls were also paralleled by a relocation plan that was presented as a way to relieve pressure on the reception systems of southern EU countries. The plan, which was adopted via two council decisions in 2015[11], has been heralded as an extraordinary measure to be adopted pursuant to Article 78(3) of TFEU. It was binding on member states and worked according to a 'distribution key' which took into account factors such as the size of the resident population of each state, total GDP, the average number of asylum applications per one million inhabitants over the period 2010–2014 and the unemployment rate. It has, however, got two important limitations. The first was geographic, since it concerned only asylum seekers to be relocated from Italy and Greece. The second was related to the nationality of asylum seekers, as the plan was intended only for foreigners *in clear need of protection*: that is, those nationalities for which the proportion of asylum applicants granted international protection across the EU has been 75% or more, according to the most up-to-date quarterly Eurostat data.

The relocation plan has, however, not worked as hoped and, as of October 2017, only 31,503 of the envisaged 160,000 refugees had been effectively relocated from Italy and Greece (European Commission, 2017f). The commission has identified two main bottlenecks caused by the time it took to get approval from receiving member states and the low number of relocation pledges offered by other member states. It is also likely that delays in registration discouraged asylum seekers from applying for relocation, and delays in executing transfers have caused them to abscond. Nevertheless, beyond the technicalities of its implementation, it was the underlying philosophy of the plan which was deeply flawed. The relocation mechanism was essentially designed to save rather than to overcome the 'Dublin system' by providing a safety valve to be activated in exceptional circumstances (Carrera and Lannoo, 2015; Trauner, 2016). Moreover, it can be argued that its dominant logic was not so much that of 'solidarity', but rather that of 'conditionality' and 'coercion'. The plan functioned as a governmental apparatus designed to achieve forced acquiescence to the 'Dublin system'. As the commission pointed out, not only was "the identification, registration and fingerprinting of migrants upon arrival a precondition for relocation to work" [European Commission, (2015e), p.3], but the entire plan could had been suspended at any time if the states concerned did not put in place an effective system for the registration of those reaching their territory. Although the relocation system took account of the private, family and personal circumstances of asylum seekers in making relocation decisions, it did not require the

consent of the persons involved. Asylum seekers were thus forced to relocate to countries that they have not chosen, and this explains why the plan was not popular among those who were subject to it (Den Heijer et al., 2016).

The difficulties in the implementation of the relocation plan have also further highlighted the lack of consensus among EU countries on how a proper equilibrium between solidarity and responsibility could be eventually achieved in the EU common asylum policy, with central and eastern EU countries refusing to accept relocated refugees from Greece and Italy on account of their alleged 'soft touch' on irregular migration. The east/west divide on migration and asylum policies has become even more profound over time and is in fact slowing down the approval of the overall reform of the common European asylum system proposed by the European Commission in May 2016. The commission's package included, among other things, a proposal for a reform of the 'Dublin regulation' (European Commission, 2016f) which envisages a new system for allocating asylum applications among member states. While the European parliament has already adopted an ambitious political mandate to start negotiations on the 'Dublin' reform, within the European Council, member countries are still struggling to reach an agreement on a permanent mechanism for the redistribution of asylum seekers among them, with central and eastern EU countries refusing the idea of relocation altogether (Nielsen, 2017b).

4.4   Reforming Frontex

Another key aim of the EU agenda on migration was that of strengthening Frontex's operational capacity; in particular, this would allow the joint operations it was coordinating in the Mediterranean, namely *Triton* and *Poseidon*, to be reinforced in order to make them capable of carrying out search and rescue activities comparable to those undertaken throughout 2014 by the Italian operation *Mare Nostrum* (Carrera and den Hertog, 2015). The debate on the strengthening of Frontex was at first imbued with the rhetoric of humanitarian imperatives, and the parallel rhetoric of solidarity with member states most exposed to the influx of refugees. The EU agenda on migration was, however, opening a new phase. As we have seen, the commission had launched the hotspot approach, which envisaged an entirely new role for Frontex in the processing of incoming migrants and the repatriation of those not entitled to international protection. The commission was however also envisaging an overall reform of Frontex with the announcement of a forthcoming proposal on the creation of a true 'European system of border guards' [European Commission, (2015a), p.17].

The commission's proposal for a new border agency (European Commission, 2015h) was finally published on 15 December 2015, after weeks during which the EU public had witnessed a true 'border spectacle' suggesting that the 'end of Schengen' was to come about. Given the unprecedented perception of an imminent disintegration of the EU, the proposal was given high priority, to the extent that the same European Council announced the intention to reach an agreement on the issue by June 2016 (European Council, 2015c). In the following months, there was not much room for the emergence of alternative points of view, such as those timidly advanced by the European Economic and Social Committee (2016), which argued that any attempt to return to the normal functioning of the Schengen's rules would first need a reform of the Dublin system rather than a new border agency. On the contrary, the commission has repeatedly reiterated that a return to normality in the Schengen area depended on the rapid adoption of its proposal

on the new border agency (European Commission, 2016g). It further recommended that the European Council authorise member states to maintain internal border controls for another six months, at which point, with the final enactment of the regulation on the new border agency, all the serious deficiencies in the management of external borders could be definitively overcome [European Commission, (2016h), p.8].

The renewed Frontex, now officially named the European Border and Coast Guard (EBCG), was launched in October 2016. Compared to the past, the agency has been strengthened with regard to the availability of human and technical resources and is now entrusted with increased operational tasks and competences. Alongside the control of irregular migration and migration management in 'hotspot situations', the EBCG is explicitly called on to prevent cross-border crime and provide technical and operational assistance in support of search and rescue operations. These objectives may be pursued jointly, in the course of 'multipurpose' operational activities. The EBCG can also now carry out a wider range of actions at external borders. Beside the traditional joint operations and rapid border interventions, the agency can also deploy its officials in the framework of the migration management support teams in the so called hotspot areas and, directly related to the role the EBCG will play in hotspot areas, the agency now has enhanced responsibilities with regard to the repatriation of irregular migrants.

Moreover, the EBCG will have the task of developing a strategy for the integrated management of EU borders and of assessing its effective implementation by member states. A new 'vulnerability assessment' was established, thus reinforcing the role that the old Frontex was already playing in the strategic analysis of the situation at external borders. The EBCG will evaluate the effectiveness of every aspect of the integrated management of external borders and, in particular, will assess "the availability of the technical equipment, systems, capabilities, resources, infrastructure, adequately skilled and trained staff of member states necessary for border control."[12] The new EU border agency is also called upon to deploy its liaison officers in member states' territory, so as to ensure effective monitoring of the situation not only through risk analyses and information exchange, but also through its presence in the field. Member states are thus subject to a permanent monitoring system directed at evaluating their "capacity to carry out all border management tasks, including their capacity to deal with the potential arrival of large numbers of persons on their territory[13]." This, according to some [Rijpma, (2016), p.15], creates a kind of hierarchy between the EU agency and national border authorities, with the latter being essentially subject to the EBCG supervisory power.

The commission hoped this evaluation mechanism would prevent the eruption of a 'critical situation' at the external borders that could jeopardise the functioning of the whole Schengen system [European Commission, (2015i), p.4]. In the face of a negative assessment of vulnerabilities, the EBCG's Executive Director can recommend remedies which the member state is required to implement and, where a member state does not implement the necessary measures, the agency management board may then adopt a binding decision setting out the measures to be taken by the member state concerned and the time limit within which such measures must be implemented. Finally, if the member state does not implement the measures within the time limit foreseen in that decision, the management board shall notify the Council and the Commission and further action may be taken in accordance with Article 19, regulation (EU) No. 2016/1624, which establishes the EBCG's right of intervention. This 'crisis management' mechanism is intended to prevent the occurrence of situations similar to that which occurred in autumn

2015, when Greece repeatedly refused the support of Frontex in dealing with the large influx of refugees, thus triggering other member states to reactivate controls at their internal borders. This procedure can be activated when a member state does not implement the required measures in accordance with a decision of the EBCG management board made in response to a negative vulnerability assessment; or when a member state facing specific and disproportionate challenges at its external border has not requested sufficient support from the agency. In these cases, the member state concerned may be forced to accept EBCG intervention on its territory and agree to the operational plan drawn up by the agency Executive Director within three working days.

5   Final remarks

Over the past few years, the debate on the crisis of the EU has become particularly intense (Habermas, 2012; Balibar, 2014; Zielonka, 2014). The 'economic crisis', the migrant or refugee 'crisis', and finally 'Brexit' all seem to have accelerated a process of potential political disintegration. Yet others point out that EU institutional evolution has always been in some way the result of recurring crises. To some extent, the EU co-exists with crisis. It has been in crisis since its origin (Cassese, 2016). The implications of the migrant or refugee 'crisis' are however hard to identify, as they do not seem to have paved the way for a change in EU border control, migration and asylum policies. The EU has lost an opportunity to rethink the essential tenets of its border regime. On the contrary, the EU is trying to consolidate the regime by relying on old strategies, with the role played by neighbouring countries and southern frontline countries still being seen as key to the functioning of the whole system.

As we have seen, the EU agenda on migration has essentially led to the relaunch of the highly controversial migration diplomacy with third countries. It has also triggered an attempt to change the balance in the roles of national sovereign powers and supranational agencies in border control policies. This has essentially been done (or at least attempted) with the reform of Frontex. The hotspot approach has finally led to the transformation of the reception system in frontline member countries into a tool for preventing the secondary movement of asylum seekers and keeping them under close police surveillance. In partial compensation for frontline countries undertaking a 'gatekeeper' role, a relocation plan has been put in place. This, however, has not worked effectively because it replicated the flawed logic behind the 'Dublin system'. In particular, it was based on the idea of coerced transfer and was premised on a distorted idea of solidarity. As some scholars have pointed out (Carrera and Lannoo, 2015), the events of the last two years would suggest the need to completely replace the 'Dublin system' with a more innovative system based on a new model of institutional solidarity. In May 2016, the European Commission presented a proposal for the overall reform of the common European asylum system. One of the central elements of the commission's proposal was the reform of the 'Dublin regulation' with a new system for allocating asylum applications to member states. Unfortunately, however, at the end of 2017 there was still no agreement on the issue.

Although the etymology of the word 'crisis' also refers to the idea of 'judgement' and to the ability to carry out a critical evaluation of events, the huge debate that the migrant or refugee 'crisis' has sparked at EU level has served to hide rather than reveal the structural roots of the problem, and has favoured emergency responses aimed at a further

consolidation of the EU border regime. Ultimately the overall objective of the EU agenda on migration was to ensure policy stability (Jeandesboz and Pallister-Wilkins, 2016; Trauner, 2016). The paradox of a crisis that does not produce a policy change but triggers a further 'consolidation' of the European border regime has been essentially caused by the fact that the 'political' roots of the problems have been concealed behind a policy discourse which has focused on technical aspects of the crisis related exclusively to emergency management. The migrant or refugee 'crisis' has essentially been treated, not as a global crisis demanding innovative political solutions, but as an 'emergency' due to a temporary increase in the migratory pressure faced by some EU countries that could be addressed by reinforcing the current border regime through renewed cooperation with neighbouring countries, and using emergency management tools such as the hotspot approach, the right of intervention of the new border agency, and the relocation plan.

However, I believe that behind these seemingly technical solutions to the 'crisis' lies a clear political design aimed at an overall 're-bordering' of the EU. As it was in the case of the 'economic crisis', the migrant or refugee 'crisis' has represented an opportunity for a further consolidation of the uneven European political geography. The 'crisis' has served to rebuild the EU's external border, in particular by redefining the scope of the area of influence in which the EU tries to exert its external governance of migration and home affairs, but it has also been used to redefine EU internal borders, where an increasing 'core-periphery' dynamic is at work and frontline member countries have been under growing political pressure to fully implement the EU agenda on migration.

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Notes

1   The Schengen borders code [regulation (EC) No. 562/2006] set the common rules to be followed when exercising controls at the external borders; an evaluation mechanism; and the rules on the temporary reactivation of internal border controls by member states. Operational cooperation among national border agencies has been strengthened with the adoption of regulation (EC) No. 2007/2004, which established the Frontex agency, and, as we shall see, has been recently repealed with the enactment of regulation (EU) No. 2016/1624. Common rules on reception for asylum seekers across the EU, rules for the identification of the member state responsible for examining asylum applications and on the identification and fingerprinting of all asylum seekers and irregular migrants were set with the enactment of the directives 2011/95/EU, 2013/32/EU and 2013/33/EU, and of regulations (EU) No. 604/2013 and (EU) No. 603/2013. Common rules on the return and detention of irregular migrants were set by directive 2008/115/EC. Finally, international cooperation on border control and readmission is carried out under the framework of an expanding web of bilateral/multilateral agreements with third countries.

2   Court of Justice of the EU, joined cases *C-410/10* and *C-493/10*.

3   European Court of Human Rights, *M.S.S v. Belgium and Greece*, application no. 30696/09.

4   European Court of Human Rights, *Tarakhel v. Switzerland*, application no. 29217/12.

5   European Court of Human Rights, *Hirsi Jamaa and Others v. Italy*, application no. 27765/09.

6   Returned persons had either received a negative asylum decision, had withdrawn their asylum application, or had not applied for asylum in the first place.

7   Council decision (CFSP) 2015/778.

8   Council decision (CFSP) 2016/993.

9   According to figures released by the Italian Ministry of Interior, 33,288 migrants arrived on Italian shores between July and November 2017, representing a reduction of two-thirds compared to the 102,786 arrivals in the same period of 2016 (author's elaboration on data retrieved from Ministero dell'Interno, 2017).

10 Only recently, in response to the controversy sparked by the appalling detention conditions in Libya, the Italian government, in collaboration with the UNHCR, has opened a humanitarian corridor for the resettlement of the most vulnerable refugees (UNHCR, 2017e).

11 A first resolution, enacted in July 2015, provided for the relocation of 40,000 asylum-seekers [Council decision (EU) 2015/1523 of 14 September 2015]; and a second in September 2015 provided for the relocation of an additional 120,000 applicants [Council decision (EU) 2015/1601 of 22 September 2015].

12 Article 13(2), regulation (EU) no. 2016/1624.

13 Article 13(4), regulation (EU) no. 2016/1624.