

David Fernández-Rojo, *EU Migration Agencies: The Operation and Cooperation of FRONTEX, EASO and EUROPOL*. Cheltenham Edward Elgar, 2021. xvi + 254 pages. ISBN: 9781839109331. GBP 90.

Migration has been one of the most contentious issues in Europe for many years, especially since the so-called “refugee crisis” of 2015, when more than a million people arrived in the European Union. The dramatic images of people on the move arriving on the Greek islands in inflatable dinghies, drowning at sea – like the iconic image of the Syrian boy Alan Kurdi whose lifeless body washed ashore on a Turkish beach in September 2015 – and walking across Europe had a profound impact on EU migration policy. The European Agenda on Migration, adopted by the European Commission in May 2015, and the controversial EU-Turkey Statement of March 2016 are but two examples of recent developments in the EU’s approach to border management, migration and asylum that have been triggered by the “refugee crisis”.

The book under review focuses on one particular aspect of European migration policy, namely the role played by three EU agencies in the Area of Freedom, Security and Justice (AFSJ) in border management, migration and asylum: the European Police Office (Europol), the European Border and Coast Guard Agency (Frontex) and the European Asylum Support Office (EASO). It demonstrates that the so-called “refugee crisis” reinforced the operational powers of these agencies. More specifically, the book examines “to what extent Frontex, EASO and Europol are playing a growing operational role in the AFSJ, as well as being increasingly involved in steering and shaping the implementation of EU border management, migration and asylum policies at the national and local level” (p. 13).

Fernández-Rojo’s book consists of six chapters. Chapter 1 offers a general introduction that presents Frontex, EASO and Europol as operational decentralized agencies. Chapter 2 examines the establishment and initial operational role of Frontex, EASO and Europol. It shows how the EU institutions played an increasingly important role in the field of border management, migration and asylum, and how Frontex, EASO and Europol gradually became significant institutional players: their role is to ensure the effective and harmonized implementation of AFSJ legislation and policies by operationally supporting and coordinating Member States’ activities. The author demonstrates that “[t]he real push for Frontex, EASO and Europol’s operational powers came from the experimentalist, dynamic and broad interpretive approach and practices they took in regard to their legal mandates . . . Operational tasks involving genuine initiation and planning by the agencies hide behind the merely technical and administrative concepts of facilitation, coordination and assistance” (p. 62).

This point also becomes clear from Chapter 3, which maps the reinforced operational tasks of Frontex, EASO and Europol and the impact of their activities on the ground. It discusses, for instance, the deployment of European Border Guard Teams and Asylum Support Teams by Frontex and EASO respectively, as well as Europol’s participation in Joint Investigation Teams. Chapter 3 thus shows how legislative and empirical developments over time set forth the trend identified in Chapter 2: the tasks of the EU migration agencies “are moving from merely providing the competent national authorities with technical assistance to developing powers with a significant operational nature” (p. 63).

Chapter 4 examines the bilateral and multilateral operational cooperation among Frontex, EASO and Europol, notably in the context of the hotspot approach established in the 2015 European Agenda on Migration. Inter-agency cooperation becomes increasingly necessary in light of the proliferation of EU agencies within the AFSJ and the progressive reinforcement of their mandates. The hotspot approach thus aims to provide “a platform for the EU AFSJ agencies to swiftly coordinate their activities while assisting frontline Member States that cannot adequately manage a disproportionate migratory pressure on their own” (p. 135). Frontex, EASO and Europol “register, process and identify the arriving migrants, assist in the investigations to dismantle migrant smuggling networks, provide the Greek and Italian authorities with infrastructural facilities and human resources, and refer the migrants to the asylum or return procedure, as appropriate” (p. 134). However, Fernández-Rojo demonstrates that in practice the operational involvement of these agencies goes beyond their narrow but vague legal mandates, as a result of which they have an impact on implementation matters that previously were the Member States’ exclusive competence.

Chapter 5, in turn, discusses the limitations to the reinforced operational tasks and cooperation of Frontex, EASO and Europol. It applies the non-delegation doctrine as developed by the ECJ in *Meroni* (Case 9/56) and *Short-Selling* (Case C-270/12) and concludes that a strict application of the *Meroni* doctrine prevents Frontex, EASO and Europol from being vested with fully-fledged and autonomous operational tasks. The chapter further clarifies that Member States steer and control the activities of these agencies through the election and supervision of the executive directors and the majority presence of national representatives in their management boards, as a counterweight to the increasing Europeanization of migration, asylum and border management. It also discusses the limitations of the agencies’ fundamental rights mechanisms such as Frontex’s Consultative Forum, Fundamental Rights Officer and individual complaints mechanism.

Finally, Chapter 6 offers some general conclusions and perspectives for further research. Bringing together the findings from earlier chapters, Fernández-Rojo concludes that Frontex, EASO and, to a lesser extent, Europol increasingly have an operational nature in practice, notwithstanding the fact that according to their legislative frameworks their operational role is limited to providing technical assistance to the competent national authorities. Nevertheless, neither agency has full decisional, enforcement or coercive powers, as EU Member States are reluctant to relinquish sensitive competences to the EU institutions. The Member States thus face a Catch-22 situation, since at the same time they increasingly need supranational assistance in matters of migration, asylum and border management.

Overall, the book makes a valuable contribution to existing scholarship on EU decentralized agencies, especially as regards the difference between their *de jure* operational functions and their *de facto* activities on the ground. Its comparative approach, which includes not only Frontex and EASO but also Europol, complements existing literature which tends to focus on Frontex (e.g. Fink, *Frontex and Human Rights* (OUP, 2018); Mungianu, *Frontex and Non-Refoulement: The International Responsibility of the EU* (CUP, 2016)).

A number of topics, such as the monitoring of the agencies’ activities, their accountability and the allocation of responsibility are necessarily excluded from the scope of the book. However, Fernández-Rojo rightly notes that the book can contribute to those issues. Indeed, the recent controversies surrounding Frontex and its executive director, and the multiple attempts to hold the agency accountable for its alleged involvement in fundamental rights violations – including an action before the ECJ for failure to act under Article 265 TFEU and a fact-finding investigation by the Frontex Scrutiny Working Group of the European Parliament’s Committee on Civil Liberties, Justice and Home Affairs – confirm the importance of this topic.

A related issue, which weaves throughout the book, concerns the secrecy surrounding the activities of Frontex, EASO and Europol. For instance, Frontex’s operational plans, their evaluation reports and handbooks are only disclosed on a case-by-case basis and are often heavily redacted, and Europol denies public access to the details of its activities on the ground. This lack of transparency not only makes it difficult to ascertain to what extent and how the agencies are involved in the administration of border management, asylum and migration, and

hence determine the legality of their activities, but also creates obstacles to establishing the possible responsibility of the actors involved and holding them accountable.

Furthermore, while the book maps the evolution of Frontex, EASO and Europol from their creation up to today, it remains unclear to what extent the trends identified will continue in the future, especially in light of EU Member States' reluctance to delegate powers to EU agencies in matters touching on the core of their sovereignty. Indeed, while it seems logical to expect the trends identified to continue, the – so far unsuccessful – attempts to reform the Common European Asylum System (CEAS) since 2016 raise the question to what extent further Europeanization can be expected, at least in the short term. It therefore remains to be seen to what extent new legislative developments – which can themselves be triggered by increased migratory pressure at the EU external borders, as exemplified by the 2015 “refugee crisis” – will confirm Fernández-Rojo's findings.

This is related to a difficulty inherent in a field that is highly politicized and subject to rapid changes: to what extent do the findings hold true in the face of recent developments? Fernández-Rojo faces this challenge especially as regards EASO. Indeed, as of August 2021, the Regulation transforming EASO into the European Union Agency for Asylum (EUAA) proposed by the Commission in 2016 (COM(2016)271 final), has still not been adopted, notwithstanding the fact that the Council and European Parliament reached a provisional agreement in 2017 (Council Document 10555/17) and more recently again in June 2021 (Council Document 10352/21), while the Commission also tabled an amended proposal in 2018 (COM(2018)633 final). Moreover, Fernández-Rojo recognizes that “[t]he final adoption of the new EUAA Regulation will not take place until the whole asylum package is finalized” (p. 102). Yet the New Pact on Migration and Asylum (COM(2020)609 final) that the Commission proposed in September 2020, which builds on progress made since 2016 and seeks to move negotiations forward, has so far failed to make significant progress in reforming the CEAS. It therefore remains unclear whether the author's findings regarding EASO will remain relevant in the face of new legislative developments.

In sum, this book offers an insightful analysis of the *de jure* and *de facto* operational powers and cooperation of Frontex, EASO and Europol. It evidences a thorough and detailed mapping of the developing role of these agencies in a complex and highly sensitive political context, as well as the legal and other issues this entails. It is therefore a great addition to the library of any scholar interested in EU agencies in the field of migration, asylum and border management and related issues.

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