

A NEW EUROPEAN BORDER AND COAST GUARD AGENCY

“Does the European Border and Coast Guard Agency have the competences to be a better functioning European border guard capable of addressing the shortcomings of Frontex?”



Floortje de Vries

Student nr: 13008137

ES4-4B

Supervision by: Ms. Gabrovska

March 6, 2017

The Hague University of Applied Sciences

Faculty of Management & Organisation

European Studies

THE HAGUE
UNIVERSITY
OF APPLIED SCIENCES

Executive summary

In 2015 a high number of refugees came into Europe illegally. The European Union faced remarkable pressure at its external borders. The refugee crisis has revealed that Frontex, the current European external border management agency, was not capable of effectively controlling the external borders of the European Union. Therefore, it was necessary to introduce a new European external border management agency: the European Border and Coast Guard Agency.

The aim of this research is to assess whether this agency is capable of effectively managing the external borders. The main research question is therefore: "Does the European Border and Coast Guard Agency have the competences to be a better functioning European border guard capable of addressing the shortcomings of Frontex?". If enactment of European border management remains weak on the ground, the new agency will have created unrealisable and problematic expectations. This dissertation calls on the European Union to give higher priority to policies dealing with structural compliance with European border management by all member states.

In order to gather the necessary information, a qualitative research method is utilised in this research. The qualitative method used is desk research. Secondary literature is collated and evaluated. Several sources are considered, including books, academic articles, online journals, government reports, websites of professional organisations, and peer-reviewed publications.

Existing research reports on Frontex have demonstrated that Frontex had limitations in effectively managing the external borders of the European Union, due to the lack of appropriate competences. These inadequate competences included the lack of its own resources, dependence on member states, and the unwillingness of member states to contribute to Frontex's operations. The key shortcomings of Frontex are outlined. The competences of the European Border and Coast Guard Agency, which should be capable of addressing Frontex's key shortcomings are also considered. Based on these findings, conclusions are drawn as to whether these shortcomings can be expected to be addressed with the competences of the new agency.

Based on the findings, the conclusion shows that the new agency is not expected to address all the key shortcomings of Frontex. The new agency still needs to make some improvements in its competences to implement joint operations, return operations and effectively undertake risk analysis. It is recommended that the new agency should have an independent role in relation to those competences and should have an executive competence in order to better implement its activities.

Table of contents

Executive Summary

Chapter 1: Introduction

- 1.1 Problem statement
- 1.2 Research objective and justification
- 1.3 Research questions

Chapter 2: Research and methodology

- 2.1: Desk research
- 2.2: Methodology
- 2.3: Limitations

Chapter 3: Background information

- 3.1 Background of Frontex
 - 3.1.1 The development of European external border management
 - 3.1.2 The establishment of Frontex
 - 3.1.3 The competences of Frontex
- 3.2 The literature review
 - 3.2.1 The shortcomings of Frontex

Chapter 4 : Background information on the European Border and Coast Guard Agency

- 4.1.1 The establishment of the European Border and Coast Guard Agency
- 4.1.2 The competences of the European Border and Coast Guard Agency

Chapter 5: Results

- 5.1 Identification of the framework and its application for the European Border and Coast Guard Agency

Chapter 6: Analysis

Chapter 7: Conclusions and Recommendations

- 7.1 The research conclusions
- 7.2 Recommendations

References

Appendices

Acknowledgements

A special thank you, to my supervisor Ms. Gabrovska for her support, enthusiasm and feedback. I would also like to thank Jesper, my parents, my sisters and my friends for always supporting me, and everyone else who supported me through this writing process.

Chapter 1. Introduction

1.1 Problem statement

In 2015 nearly one million refugees arrived in Europe looking for a safe place to live. Those people had no other option than to leave their homelands, due to wars, violence, crime, or because of their religious backgrounds (*Desperate Journey: Europe's Refugee Crisis*, 2015). For this reason, the European Union faced remarkable pressure at its external borders. More than one million refugees came into Europe illegally (*Regulation of the European Parliament and of the Council*, 2015, p. 2). The current refugee crisis requires a common response from the European member states and the Schengen states, alongside those states' individual responsibilities towards refugees (Guild, E., Costello, C., Garlick, M. and Moreno-Lax, V., 2015, p. 2). The member states are the 28 countries that joined the European Union (*European Member Countries*, n.d.). The Schengen states are 26 countries that approved the abolition of their internal borders (*Schengen Area Countries List*, n.d.). The need for a common European policy for the external border management of refugees is now extraordinarily urgent. (Guild, E., Costello, C., Garlick, M. and Moreno-Lax, V., 2015, p. 2).

The current refugee crisis has revealed that existing structures at national and European level are insufficient to address the challenges of such a huge influx of people. Most of the European Union is an area without internal borders, and as a result, irregular migration through the external borders of one member state affects all other member states within the Schengen area (*Regulation of the European Parliament and of the Council*, 2015, p. 2). Several member states have had to reintroduce border management at their internal borders due to the refugee crisis which has put extreme pressure on the consistency of the Schengen area. The Schengen principle of no internal borders is only sustainable if the external borders are effectively secured and protected. Control of the external borders of the European Union is of common interest and must be accomplished with uniform Union standards (*Regulation of the European Parliament and of the Council*, 2015, p. 2).

Although borders cannot meet a requirement for complete security, member states and Schengen states can make a meaningful contribution to increasing security. It is necessary to enhance security at the external borders in order to remedy public confidence (*Regulation of the European Parliament and of the Council*, 2015, p. 2). An area of free movement without border controls is only sustainable if the common European borders are collectively managed and if internal security becomes a common concern (*Saving Schengen: Building a European Border Management System*, 2016).

Frontex, the European Agency for the Management of Operational Cooperation at the External Borders of the member states of the European Union, is the current agency responsible for European external border management (*Mission and tasks*, n.d.). The refugee crisis has demonstrated that vulnerabilities persist in Frontex (*A European Border and Coast Guard and effective management of Europe's external borders*, 2015, p. 2). Frontex has developed and promoted border management of the European Union in a manner that is consistent with integrated border management and fundamental rights (*Mission and tasks*, n.d.) however, the agency has faced a number of obstacles in carrying out its role effectively (*Securing Europe's external borders*, 2015, p. 2). Member states are not capable of registering and identifying migrants at the external borders (*A European Border and Coast Guard and effective management of Europe's external borders*, 2015, p. 2). Frontex was not able to effectively control and tackle the refugee crisis. The agency does not have its own staff or technical equipment and depends on the resources of member states. In addition, the agency is not able to accomplish border management operations without the agreement of member states (*Securing Europe's external borders*, 2015, p. 2).

1.2 Research objective and justification

In order to improve external border management, a forceful step towards a more integrated management system for external borders is needed. This is only achievable when member states share tasks in line with the principles of responsibility and solidarity which is agreed by all institutions of the European Union (*Regulation of the European Parliament and of the Council*, 2015, p. 2). Migration management is a collective responsibility among member states of the European Union, Schengen States, and non-European countries. The *European Agenda on Migration: Why a New European Agenda on Migration* (the Agenda), provides a new approach by linking external and internal policies, and is based on mutual principles among institutions and member states of the European Union (*European Agenda on Migration: Why a new European Agenda on Migration*, n.d.).

The European Union has announced the creation of a new cooperative Border and Coast Guard Agency that will guard its external borders and deal with the influx of refugees coming from Africa and the Middle East (*EU Responds to Migrant Crisis By Creating New Border Guard Agency*, 2016). The regulation of the European Border and Coast Guard Agency is based on the Regulation of the European Union 2016/1624 (*Legal basis*, n.d.) and sets up the fundamental aspects of European integrated border management. It establishes a European Border and Coast Guard Agency developed from Frontex (*Regulation of the European Parliament and of the Council*, 2015, p. 2).

Since Frontex has faced a number of obstacles in carrying out its role effectively, it is necessary to assess whether the new agency is capable of effectively managing external borders.

The purpose of this research is to assess whether the European Border and Coast Guard Agency will be a better functioning agency with new competences capable of addressing the shortcomings of the current agency, Frontex. If the European Border and Coast Guard Agency is not significantly different from Frontex and is not capable of addressing the current shortcomings, the European Border and Coast Guard Agency will be new in name only. The agency would then be creating expectations that are challenging to achieve, especially if compliance with European border management remains weak on the ground. This dissertation calls on the European Union to give higher priority to policies dealing with the structural compliance of European border management by all member states. If the European border management remains weak, it will not be capable of securing the external borders of the European Union appropriately. This means that European border management will not function well. The functioning of the Schengen Area and the absorption capacity of the European Union will be affected, if refugees continue to cross Europe in large numbers within a short period of time.

1.3 Research questions

The following research question will be examined: “Does the European Border and Coast Guard Agency have the competences to be a better functioning European border guard capable of addressing the shortcomings of Frontex?”. It is important to understand whether the new agency will strengthen and enlarge on the current competences of Frontex. The methodology employed is described in the following chapter 2, which explains how the data referred to in the dissertation was collected and generated. Background information on Frontex and a literature review are presented in chapter 3. This chapter explains the development of Frontex and its competences and it addresses the shortcomings of Frontex. Background information on the European Border and Coast Guard Agency is presented in chapter 4. This chapter discusses why this agency has been established and what the new competences are. The results are addressed in chapter 5, drawing on information presented in previous chapters. This section provides information on the key shortcomings of Frontex established in the literature review, and assesses the new competences of the European Border and Coast Guard Agency. Finally, chapter 6 analyses the findings of the results section and chapter 7 outlines conclusions and recommendations. The conclusion aims to answer the research question and the recommendations give suggestions about what should be done as a consequence of the new information and knowledge collected through the research.

Chapter 2. Methodology and research

2.1 Desk research

This section describes the research methodology that has been used to answer the research question. The qualitative method of desk research has been applied, using secondary literature sources (Verhoeven, 2014, p. 160/161). Secondary literature comprises information that is already available, for instance, in the library at The Hague University and public libraries in The Hague, The Hague University Library's online system 'EBSCO', and the Google Scholar Database. This research aimed to examine the existing research and build on that knowledge. Several sources have been consulted, including books, academic articles, online journals, government reports, websites of professional organisations, and peer-reviewed publications. This dissertation has focused on European agencies, policies and treaties. The majority of the information consulted derives from reliable articles and official government reports and policies issued by European agencies, the European Council, the European Parliament, and the European Commission.

2.2 Methodology

This section gives an overview of the methods used in each chapter. Chapter 3 discusses background information on Frontex in order to understand what Frontex is, the reasons for its establishment and what competences the agency has. The sources used are the official website of the Frontex agency, online books from Google Scholar, academic articles, and the official website of the European Commission.

In order to consider the shortcomings of Frontex it was necessary to consult existing studies of the agency. An overview of Frontex's performance of various activities where there have been failures is given. Sources such as academic articles, online journals and research studies on Frontex written by other authors have been reviewed, including the research papers on Frontex by Rijpma (Rijpma, 2010), Mathiason, Parsons and Jeory (Mathiason, N., Parsons, V. and Jeory, T, 2015), Carrera (Carrera, 2007), and Jorry (Jorry, H. 2007). The limitations Frontex had during its activities and why a new agency is needed are discussed. Whether the European Border and Coast Guard Agency will have reinforced competences capable of addressing the shortcomings of Frontex is considered.

Chapter 4 discusses the background information on the European Border and Coast Guard Agency in order to understand the reasons of establishment and what competences this new agency has. This is also important to better understand which new competences the European Border and Coast Guard Agency will have. The sources considered for that discussion are the official websites

of Frontex and the European Border and Coast Guard Agency, the official website of the Council of the European Union, the official website of the European Commission, academic articles and online journals.

The findings as a consequence of the literature review and the competences of the European Border and Coast Guard Agency are used in the results section to assess whether the new agency does have new or reinforced competences capable of addressing Frontex's key shortcomings .

Based on the results section, the analysis section considers whether the European Border and Coast Guard Agency is capable of being a better functioning European border guard.

2.3 Limitations

Since the European Border and Coast Guard Agency was recently launched on 6 October 2016, it is not possible to predict yet how the agency will function. Frontex's shortcomings, which are most commonly agreed upon by the majority of authors, have been identified. Based on these key shortcomings the question of whether the European Border and Coast Guard Agency has new or reinforced competences capable of addressing the shortcomings identified, is examined.

Chapter 3 Background information

3.1. Background of Frontex

3.1.1 The development of European external border management

Since 1950 a fundamental aim of European integration has been the unrestricted free movement of persons. In 1957 The Community of the Treaty of Rome was established with the basic assumptions of free movement of capital, service, goods and people (*Frontex origin*, n.d.).

In 1980 five of the European Economic Community member states, specifically the Netherlands, Germany, Belgium, France and Luxembourg, took the first step towards a common external border management by signing the Schengen Agreement. The agreement was necessary to set up a territory without internal borders and to establish enhanced control of the external borders (*Frontex origin*, n.d.). In 1990 the original agreement was finished by the Convention (*Frontex origin*, n.d.). This Convention sets out the explanation of the procedures for declaring a common visa, the removal of internal border controls, the creation of a collaborative structure between immigration and internal officers, and the establishment of a single database for member states: the Schengen Information System (SIS) (*Schengen Agreement*, n.d.).

In 1995 this convention started to operate, developing a single external border for all Schengen States and removing internal border checks. All countries who agreed to Schengen have mutual rules on the right to asylum and on visas (*Frontex origin*, n.d.). The Schengen Agreement was renamed as the Schengen Area which is a zone where 26 Schengen States accepted the abolition of the internal borders with other Schengen States. This resulted in the unrestricted free movement of goods, services, capital and persons, and common rules for combatting criminality by enforcing a shared judicial system and controlling external borders and collaboration of the police (*Schengen Area Countries List*, n.d.). Passport checks at external borders were removed, leading to the introduction of external border controls for people coming from third world countries who are seeking to enter the member states and Schengen countries. Therefore, migration in the European Union became a fundamental discussion point between member states and Schengen states. Due to the removal of borders, every person is able to cross the borders and to move freely throughout Europe. The need for effective external border management became essential (Ruskyte, 2014, p. 11).

Further developments were made with the Amsterdam Agreement, which started to operate in 1999. The 'Schengen acquis' was integrated into European Union Law and the common European

Union Migration policy became law (Ruskyte, 2014, p. 11). The Schengen States agreed “compensatory measures” (*Frontex origin*, n.d.) in order to maintain harmony between security and freedom. These measures were focused on the coordination of the work of the judicial authorities and the police in order to ensure security within the Schengen Area (*Frontex origin*, n.d.). In that year, the heads of the European Union discussed the fundamental issues of migration into the EU and created instructions to establish the area of Freedom, Security and Justice in Europe at the European Council in Tampere (Ruskyte, 2014, p. 11). The European Council in Tampere accepted the first work agenda which had a time period for the upcoming five years (Bermejo, n.d., p. 5). The Council discussed issues such as the creation of a common European asylum and migration policy and judicial cooperation in civil matters and visas. The Area of Freedom, Security and Justice was grounded on the basis of democratic control and transparency and was committed to consider fundamental human rights, which includes refugee laws, in its migration policy (Ruskyte, 2014, p. 11).

These standards of democratic transparency and control were expanded by the European Council, the Laeken Conference. The weaknesses in the Area of Freedom, Security and Justice, as created by the Tampere programme, were discussed. The European Council also stated that a common asylum and migration policy is necessary (Ruskyte, 2014, p. 12). Laeken assigned the Commission and the European Council to create a common European external border policy. The external border control could only be achieved by shared services. Consequently, the Laeken Council requested a report written by the Commission that there should come an integrated border management of Europe’s external borders (Ruskyte, 2014, p. 12). This report explained the issues of EU border management and recommended how the European external borders will be reinforced by establishing a European border guard. A common policy needed to be established. This policy comprises five key aspects: a common coordination and operational cooperation mechanism, burden-sharing between member states, common integrated risk analysis, a common corpus of legislation, and of staff and inter-operational equipment (Ruskyte, 2014, p. 13).

In 1999, The European Council on Justice and Home Affairs has taken actions in the area of security, migration and asylum in order to reinforce the collaboration (*Frontex origin*, n.d.). This resulted in the establishment of the External Border Practitioners Common Unit which is a group that consists of heads of national border control services and members of the Strategic Committee on Immigration, Frontiers and Asylum (SCIFA). This Unit was responsible for shared operations on border management and European pilot projects (*Frontex origin*, n.d.).

The Unit arranged national projects of Ad-Hoc Centres on Border Guard. There are six ad-hoc centres, these are the Eastern Sea Borders Centre in Greece, the Centre of Excellence in the United Kingdom, the Centre for Land Borders in Berlin, the Western Sea Borders Centre in Spain, the Air Borders Centre in Italy, the Ad-hoc Training Centre for Training in Austria and the Risk Analysis Centre in Finland (*Frontex origin*, n.d.). Nevertheless, The European Commission and member states criticised this Common Unit, for the reason that the Unit was perceived as inefficient in terms of transactions with European border management. The Unit had fundamental restrictions when it came to efficient coordination at the external borders. Furthermore, the Presidency of Greece interpreted the legal framework as inappropriate and stated that there was a lack of an autonomous monitoring instrument (Ruskyte, 2014, p. 13).

The European Council of Tampere is ready to set up a new agenda after the first work agenda five years ago. The European Council approved The Hague Programme, which is a multi-annual programme. The aim of this programme is to reform the shared capability of the member states and the European Union (*The Hague Programme : strengthening freedom, security and justice in the European Union, 2004, p. 1*). The Hague Programme has been the model of the European Union by achieving its view in the fields of judicial and police collaboration, border and migration control, admission to justice, organised crime and terrorism, and worldwide protection (*Justice, Freedom and Security in Europe since 2005: an evaluation of the Hague Programme and Action plan, 2009, p. 2*).

A new permanent agency has to be established in order to accomplish an auspicious collaboration of member states and effective control of the external borders of the European Union. Therefore, the European Commission proposed a permanent agency in 2003. This agency should be able to act on risks and has to be capable of implementing European border management effectively. The proposal was approved by the European Council of Thessaloniki and therefore, permitted, the Commission to come up with an agency for the management of external borders. Consequently, the Commission introduced a draft proposal for a regulation which established a European external border agency, resulting in Frontex (Ruskyte, 2014, p. 13/14).

3.1.2 The establishment of Frontex

On 26 October 2004 the European Agency for the Management of Operational Cooperation at the External Borders of the member states (Frontex) was established by the Council Regulation (EC) 2007/2004 in order to improve integration of external borders management (*Frontex origin*, n.d.). It was created as an executive agency of the European Union (Gavelstad, 2013, p. 15). Frontex is an autonomous agency of the European Union and started to operate in Warsaw in 2005 (Giannetto, 2012, p. 101). The agency implements the border management strategy of the European Union and is a division of the area of Freedom, Security and Justice (Gavelstad, 2013, p. 15). Frontex has its legal basis in Article 66 and 62 paragraph 2a EC Treaty, Article 74 and Article 77 paragraph 2b and 2d in the Functioning of the European Union. The first proposal had no reference to the surveillance and control of the external borders, later on the member states revised this proposal by adding this reference to the agency (Smetana, 2013, p. 12).

The aim of the agency is to develop integrated external border management by having more efficient management of external borders, such as, sea and land borders and seaports and airports. In the Hague Programme of 2004, the European Council asked the Commission to give an assessment of Frontex at the end of 2007 (*Report on the evaluation and future development of the FRONTEX Agency*, 2008, p. 2). This included an analysis of the activities of Frontex and an evaluation of whether Frontex should be responsible for other elements in border management. In addition, it included an assessment of the activities of the national experts teams and the functioning of the system of the European border guard. It evaluated the outcomes since the establishment of Frontex. It created guidance for actions that could be taken within the short term, within the maximum of its current mandate and it drafted a long term projection for the future development of the agency (*Report on the evaluation and future development of the FRONTEX Agency*, 2008, p. 2).

In 2004 the regulation of Frontex was first amended by Regulation (EC) No 863/2007 of the European Parliament and of the Council on 11 July 2007 (*Legal Basis*, n.d.). Thereby, an instrument for the rapid border intervention teams was established (*Legal Basis*, n.d.). The rapid border intervention teams can be deployed as a response for situations where an abundant migratory pressure exist, such as the entry of a high influx of third country passengers who cross the member states of the European Union and the Schengen countries illegally. For these situations, rapid border intervention teams (RABITs) can be deployed when member states are not able to handle the situation themselves or are unwilling to take action (Rijpma, 2016, p. 11).

In 2011 the Frontex regulation was amended by Regulation (EU) No 1168/2011 (*Legal Basis*, n.d.) for the second time and this was accepted by the Council and the European Parliament (*Legal Basis*, n.d.). The amendments reinforced the agency and expanded the staff and equipment. Since the establishment of Frontex, the annual budget has increased from 6 million Euros in 2005 to approximately 85 million Euros in 2012 (Gavelstad , 2013, p. 15). The rapid border intervention teams (RABITs) were renamed as the European border guard teams (EBGTs). The EBGTs can be deployed in standard joint operations and rapid border interventions (Rijpma, 2016, p. 11). At the current time, a second external evaluation of the effectiveness of Frontex at the external borders has been required.

3.1.3 The competences of Frontex

The competences of Frontex have been increased since its establishment (Giannetto, 2012, p. 105). Frontex supplies assistance for member states that face pressure of migrants at the external borders (*European Border and Coast Guard Agency (Frontex)*, n.d). The agency has several competences in order to support these countries according to Regulation (EU) No 1168/2011 (Giannetto, 2012, p. 105). These competences are: information sharing via information systems, risk analysis, joint return operations assistance, training of agents, research, joint operations, and the rapid response capability (Giannetto, 2012, p. 105).

The competence of information sharing aims to improve information systems that enable the distribution of information between member states (*European Border and Coast Guard Agency (Frontex)*, n.d). An example of an information system is the Information and Coordination Network and the European Border Surveillance system. Frontex exchanges information with Europol in order to tackle organised crime, or transfers information to European Law enforcement agencies in order to tackle human trafficking or illegal immigration activities (Giannetto, 2012, p. 107/108).

All activities of Frontex are risk-analysis controlled. The agency assesses risks to European border security. It develops a model of trends in criminal operations and irregular migration at the external borders. The risk analyses will be shared with the Commission and member states and will be used by Frontex for the preparation of its activities (*European Border and Coast Guard Agency (Frontex)*, n.d). A common integrated risk analysis model, CIRAM, has been created. This is a model that acquires data about threats and risks arising from irregular migration. These data will be assigned to, for instance, border guards and Member states. The Frontex Risk Analysis Network consists of specialists from different member states and from the Risk Analysis Unit (Wachter, 2012, p. 62). The Risk Analysis Unit consists of twelve representatives from Interpol, Europol, the United Nations Office on Drugs and Crime, the UNHCR, the international Centre for Migration Policy Development and the International Organisation for Migration. These representatives are cooperation partners for the risk analysis (Wachter, 2012, p. 63).

The joint return operations assistance is a competence in which Frontex coordinates joint return operations. Regardless of the involvement of Frontex, each member state can determine whether migrants should be returned to their home countries or not (*European Border and Coast Guard Agency, (Frontex)*, n.d). Frontex assists staff from different member states by returning illegal migrants back to their home countries (Wachter, 2012, p. 63). The amendment of the Frontex regulation of 2011 has changed the joint return operations by adding some additional competences

to Frontex, such as, organising and coordinating return practices. Because of this amendment, the agency is now able to pay the costs of these practices themselves, instead of using money from the European Union or European Council. Besides these new competences, the Code of Conduct (Wachter, 2012, p. 63) has been presented to guarantee human dignity and fundamental rights and make practices easier. Due to the amendment, the collaboration with non-European countries, to return illegal migrants and to obtain travel documents, is made possible (Wachter, 2012, p. 63).

Frontex also creates shared training standards for external border countries, in order to integrate training in the Schengen countries and the member states. This integration is necessary in order to maintain consistent standards of border control when passengers cross the external borders of the European Union. It encourages border guards from particular countries to cooperate in joint operations regulated by Frontex (*European Border and Coast Guard Agency (Frontex)*, n.d). The border guard teams of the European Union and staff members are trained before their deployment. A Common Core Curriculum (Wachter, 2012, p. 64) has been created and has to be incorporated into the regular curricula of the member states' national border guards. Police officers will obtain new competences by learning new methods from specialists coming from different nations. Frontex's staff will be changed regularly. The training of border guards is mainly focused on return operations, border control and surveillance (Wachter, 2012, p. 64).

Another competence of Frontex is the area of research. Experts on border control come together in order to provide new technology for border governments to improve border management (*European Border and Coast Guard Agency (Frontex)*, n.d). Frontex can be seen as an effective platform where research specialists gather together (Giannetto, 2012, p. 106). Frontex ensures that the Research and Development community (R&D) (*Role*, n.d.) presents a transparent image of the threats at the external borders. In addition, Frontex simplifies the transfer of information between stakeholders and border management governments (*Role*, n.d.), for instance, the transfer of information about the management of border control with the member states of the European Union. This means that member states will not be confronted with any obstacles when applying effective border checks at the external borders. An example of this type of border check at the external borders is the Automated Border Control (ABC) systems (*Role*, n.d.). The ABC systems support a better understanding of how to control the security of persons. The purpose of the activities of Frontex is to help member states by addressing the weaknesses at the external borders (*Role*, n.d.).

Frontex also has to competence to implement joint operations. During joint operations, Frontex arranges the distribution of technical equipment, such as surveillance equipment, vessels, aircraft, and staff, to external border areas where assistance is urgently required. Since Frontex does not have resources, these resources have to be provided by member states (*European Border and Coast Guard Agency (Frontex)*, n.d). Frontex organises and coordinates joint operations and pilot projects in member states. Frontex is capable of directing projects and practices autonomously by supplying equipment, but this has to be agreed by the member states first. The outcomes of the projects and practices have to be assessed by Frontex (Wachter, 2012, p. 60).

In order to implement a project or practice, an overview of a plan has to be given. For instance, joint operations are outlined in five steps (Wachter, 2012, p. 60). First, Frontex or member states come up with a proposal for the practice. Secondly, all activities have to be set up together with the member state in which the activity will occur. During the conferences with member states, officers will be selected and officers and equipment of other European member states and Schengen states are requested for the actions. Thirdly, a plan for the activity, that consists of a list of personnel, a schedule, point of view, the aim and the equipment, has to be outlined together with the administrative committee and should finally be accepted by the executive director (Wachter, 2012, p. 60). Fourthly, the activity is carried out. The project leader and working groups are accountable for this implementation. In order to realise this activity, the equipment and border guards of the member states and Schengen countries are deployed (Wachter, 2012, p. 61). The last step that has to be taken for joint operations is that the outcomes of the activities are assessed in a final report (Wachter, 2012, p. 61).

These joint operations can occur in the air, at sea, or at land borders. The activities on land are focused on persons who smuggle and on persons with invalid documents. Frontex's main focus is on the borders of the Spanish exclave Ceuta, Albania, Slovenia, Ukraine and borders between Turkey and Greece (Wachter, 2012, p. 61). Third countries, are also stimulated to cooperate in activities to manage land borders. Some airports are determined as air borders, such as, Milan, Paris, and Madrid. These airports have at least one air route with a third country. It is impossible to enter a country through air borders without having valid papers. However, it could be possible that people remain in a country, when their papers have expired or people make use of invalid papers. The joint operations at the air borders was realised by Frontex between 2008 and 2010 (Wachter, 2012, p. 61).

Sea borders in the Atlantic Ocean and Mediterranean Sea are the most remarkable border controls carried out by Frontex. Risk analyses are a fundamental mechanism in the protection of persons crossing borders illegally (Wachter, 2012, p. 61). Most of the people crossing borders at sea originate from Sub-Saharan African countries, Egypt and Morocco. These routes are from Africa to North Africa or the Canary Islands and from Libya to Italy or Malta (Wachter, 2012, p. 62). The third countries where most passengers cross borders are important countries for Frontex to collaborate with regarding the management of sea borders. Furthermore, Frontex plans interviews with migrants in order to recognise the routes migrants take. Frontex undertook thirteen sea-based activities between 2008 and 2011 (Wachter, 2012, p. 62).

Finally, as mentioned in the Frontex regulation of 2007, the rapid border interventions teams, RABITS, were established as a new activity by Frontex (Wachter, 2012, p. 62). The rapid border intervention teams were renamed as the European border guard teams in the Frontex regulation of 2011. Hereby, Frontex got a new competence which is the rapid response. Frontex arranges the teams formation of the European border guard. These teams are very important to those member states that face significant pressure at the external border, particularly when a huge influx of non-European nationals cross the external border of the Member State or the Schengen state. These States are not able to manage this situation themselves (European Border and Coast Guard Agency (Frontex), n.d).

Chapter 3.2 Literature review

3.2.1 Shortcomings of Frontex

As mentioned in the previous chapter, Frontex was established for integrated management of the external borders of the European Union. The role of Frontex is to manage the activities of the member states in order to ensure efficient control of the external borders. The functioning of Frontex with its competences has been explained above. However, the refugee crisis has shown that weaknesses in Frontex persist (*A European Border and Coast Guard and effective management of Europe's external borders*, 2015, p. 2). The agency faced some obstacles in the management of the external borders of the European Union (*Securing Europe's external borders*, 2015, p. 2). The agency was not able to effectively tackle the refugee crisis. A number of experts observed the functioning of Frontex and significant shortcomings in the competences of the agency came to light.

Lack of an executive competence

According to Åkerblom (2015), and Spiegel (n.d.) and Rijpma (2010), the European Union considered Frontex to be an executive agency, however Frontex's competences were those of an operational agency. The independent executive competence is not incorporated in the legal basis of Frontex. Frontex merely has a coordinative role (Åkerblom, 2015, p. 8; Spiegel, n.d., p. 25 & Rijpma, J., 2010, p. 2). Jorry (2007) states that one of Frontex's key challenges is lack of democratic accountability (Jorry, 2007, p. 2). The founding regulation of Frontex did not give the agency independent executive competences. It also stated that the executive competences of its personnel who operate in the area of another country's jurisdiction have to adhere to the national law of that country (Jorry, 2007, p. 21). Additionally, Mathiason, Parsons, and Jeory (2015) claimed that Frontex failed in its current form. Frontex can only be a good functioning border guard when it has executive competence in order to provide its own equipment (Mathiason, N., Parsons, V. & Jeory, T, 2015). Overall, most writers agreed that there is a lack of an executive competence in the regulation of Frontex.

Joint operations

Some commentators have considered shortcomings in joint operations. A significant number of authors agree that Frontex lacks its own border guards and technical equipment, and instead has to rely on the border guards and technical equipment of member states (Åkerblom, 2015, p. 8;

Cortinovis, 2015, p. 257; Katsiaficas, 2014, p. 8; Mathiason, Parsons and Jeory, 2015; Monar, n.d., p. 10; Rijpma, 2010, p. 2 & Carrera, 2007, p. 10).

According to Mathiason, Parsons and Jeory (2015), an example of a situation where this shortcoming could be addressed was in Greece and Turkey. Both countries needed more border guards. However, member states did not provide the required border guards to these countries. Therefore, Frontex was not able to adequately continue its operations. Member states provided their resources for only a short period of time. Frontex had to gather its equipment and staff from everywhere in Europe and the Schengen countries. Frontex was forced to borrow resources from non-European countries, such as Norway, the United Kingdom, and Iceland (Mathiason, N., Parsons, V. and Jeory, T, 2015).

Frontex depends on the willingness of member states to provide their resources for the operations of Frontex. Member states are not obliged to supply resources, thus member states only provide resources on a voluntary basis (Katsiaficas, 2014, p. 8; Dünwald, 2011; Spiegel, n.d., p. 30/31; Carrera, 2007, p. 10 & Mathiason, Parsons and Jeory, 2015).

Spiegel (n.d.), further, stated that it is important to understand that there is no legal commitment for member states to supply technical assistance and financial aid in Frontex operations. An example of this kind of issue was the operation of NAUTILUS in 2007. The purpose of this operation was to monitor immigration routes from Libya to Italy and Malta. However, at the beginning of August 2007, this operation ended abruptly due to the unwillingness of member states to contribute and for financial reasons (Spiegel, n.d., p. 25).

Dünwald (2011) also argued that Frontex depends on the consensus of member states to cooperate together with third countries. For example, the agency has operated on the basis of the collaboration between Spain and West-African countries, such as Morocco, Libya and Italy. Therefore, the agency could be considered as an added value to the capacity of member states to act against irregular migration (Dünwald, 2011).

Carrera (2007) states that the operational plan of joint operations consists of a plan of action, the method by which the operation will be implemented, the preparations, the technical resources, the border guards who will be available, and a financial plan. In order to implement joint operations, Frontex depends on the consensus of member states with regards to the provided budget, collaboration and coordination. Member states are not committed to cooperate in Frontex's joint operations by providing technical resources for the surveillance and control of

external borders. Therefore, the consensus of member states is very important for the joint operations of the agency (Carrera, 2007, p. 10).

Rijpma (2010) claimed that due to the coordinating role in particular joint operations by member states, the involvement of the agency in these practical activities is restricted. Monitoring and controlling the external borders is a responsibility of the member states (Rijpma, 2010, p. 2). Cortinovis declared that various member states would like to maintain the supremacy of their national mechanisms (Cortinovis, 2015, p. 261).

Information sharing

Other commentators have observed some shortcomings in information sharing. OPERA is an IT system that develops the ability of the member states and Frontex to control operational resources. The member states get access to data regarding the deployment of border guards (*Opera application*, n.d.). However, some shortcomings of OPERA were identified. For instance, border guards were wrongly listed as having participated in trainings. This was a problem for the deployment of border guards, for this reason that selected border guards did not receive the required trainings (*External evaluation of the Agency under Art. 33 of the Frontex Regulation Final report*, 2015, p. 66).

It will be more effective when the data in OPERA can be relocated in JORA (*External evaluation of the Agency under Art. 33 of the Frontex Regulation Final report*, 2015, p. 66), which is the automated reporting application (JORA) (*General report*, 2011, p. 35) and admits the selection of real-time information of joint operations and more than hundreds of thousand incidents were recorded in JORA. JORA and OPERA should be more inter-operational. The ICT platforms of Frontex are not uniform when member states report information via the accessible IT systems. Therefore, IT systems should be more inter-operational; information should automatically be relocated from one IT system to the other. This would make information sharing more effective and it will save resources (*External evaluation of the Agency under Art. 33 of the Frontex Regulation Final report*, 2015, p. 66/67).

In addition, according to Jorry (2007), in the proposal of Frontex by the Commission, the area of data exchange and cooperation with other sectors associated with external border management, consists of the exchange of general information about illegal immigration. However, the founding regulation of Frontex, 2004, stated that there would be general cooperation with international

institutions and Europol (Jorry, 2007, p. 17). The proposal by the Commission also claimed horizontal cooperation with associated sectors, for instance, Customs, as a main aspect of integrated border management. Nevertheless, the founding 2004 regulation of the agency does not mention such collaboration. The exchange of information with international institutions, for instance, Interpol, Europol, Customs and other sectors are essential for achieving integrated border management. The involvement of these organisations is essential for the arrangement of operational collaboration of the activities of Frontex, particularly for risk analysis and gathering information (Jorry, 2007, p. 17).

Risk analysis

Some authors have faced some shortcomings in risk analysis. According to Rijpma (2010), the agency coordinates, evaluates, and approves proposals for joint operations by member states and it is allowed to start operating joint operations in accordance with member states. However, Frontex and the European Commission stated that the agency should have an autonomous risk evaluation. This recommendation is supported by the evidence of the Hermes operation, which took place in September and October 2007 at the Balearic Islands and Sardinia (Rijpma, 2010, p. 3). In that instance, there was a need for the European Union and the Italian government to respond to the migration flow. In addition, the risk analyses are mainly based on the assessment of member states. The Internal Rules of Procedure (Rijpma, 2010, p. 3) of Frontex declared that the evaluation of risk analysis should be based on the activities of Frontex in order to better respond to the refugee crisis (Rijpma, 2010, p. 3).

According to Spiegel (n.d.), member states supply sensitive data, therefore, the risk assessments are confidential and not made public. The Risk Analysis Unit generates Semi-Annual and Annual Risk Assessments that are transferred to the European Commission, however it is not transferred to the European Parliament. This is a remarkable deficiency of transparency, for the reason that the risk analysis provides the basis of all the activities of Frontex. Therefore, the European Parliament requested to be involved (Spiegel, n.d., p. 26/27). The Risk Analysis Unit consists of specialists and border guards which use the Common Integrated Risk Analysis Model (CIRAM) (Spiegel, n.d., p. 27). The Common Integrated Risk Analysis Model supplies a common risk analysis procedure for member states in order to facilitate the analysis and distribution of information about border security. However, Frontex has limited access to military and criminal knowledge which is provided by member states, and for this reason Frontex does not have the necessary competences (Spiegel, n.d., p. 27).

In addition, Carrera (2007) claimed that the risk analysis competence of Frontex forms a very important basis for the coordination of joint operations. These risk analyses are not released to the public, for this reason that these analyses are confidential. The reason why the risk analyses are secret is that these analyses consist of sensitive data from member states. This cannot be revealed to the public, otherwise the source of the data might be identified and be in danger. Therefore, it could be said that there is a deficiency of transparency. Besides, there is a deficiency of democratic accountability as well, due to the exclusion of the European Parliament from these risk analyses. However, this is remarkable since all joint operations by Frontex are based on the risk analyses (Carrera, 2007, p. 14).

Joint return operations

A number of authors have considered some shortcomings in joint return operations. According to the external evaluation of Frontex (2015), Frontex should have a leading role in the joint return operations, which would enhance the role of Frontex in these operations (*External evaluation of the Agency under Art. 33 of the Frontex Regulation Final report*, 2015, p. 63). Commentators, Mathiason, Parsons, and Jeory (2015) said that Frontex should manage the joint return operations, instead of just supporting these operations. However, some members of the European Parliament and human rights campaigners are worried about the way Frontex currently implements the joint returns operations. These concerns are based on a lack of autonomous observers on joint operations and the fact that Frontex did not take action to ensure that children and pregnant women were taken apart from volatile adult returnees (Mathiason, N., Parsons, V. and Jeory, T, 2015). Therefore, the activities of Frontex in joint return operations needs to be improved. The joint return operations bring difficulties, for the reason that every country has different principles of human rights. Asylum centres sometimes witness escalating activities. The Ombudsman of the European Union blamed Frontex for having no complaint procedure for migrants who have to be returned to their home countries (Mathiason, N., Parsons, V. and Jeory, T, 2015).

Furthermore, there is no autonomous monitor to control all joint return operations. An autonomous monitor is essential, especially when joint return operations increase and when Frontex gets more competences in joint return operations. When joint return operations increase, it is important that Frontex operates in accordance with the principles of fundamental rights. A representative of Frontex declared that the agency has operated in accordance with the principles of fundamental rights, however it can always be better and should be improved (Mathiason, N., Parsons, V. and Jeory, T, 2015).

According to Jorry (2007), the founding regulation of Frontex stated that the agency is able to assist in the operational collaboration of return operations. Some arrangements with reference to return operations is not included in the competences of Frontex. Therefore, the task of Frontex to arrange joint return operations has been criticised (Jorry, 2007, p. 17/18).

The European Parliament stated that it was too early to establish an operational structure which is responsible for the return operations due to the lack of a common European policy on immigration and asylum. Therefore, the legal basis does not mention the coordinative task (Jorry, 2007, p. 18). The proposal for the founding regulation of 2004 proposed to have the simplification of operational collaboration with non-European countries within the European external association policy. However, it is not clearly stated in the regulation of 2004 that there will be collaboration with non-European countries in return operations. The collaboration with non-European countries are crucial aspects for carrying out an integrated border management in which Frontex is an essential agency (Jorry, 2007, p. 18).

Moreover, Carrera (2007) stated that regardless that Frontex has already participated in certain joint return operations implemented by member states, it remained unclear what tasks the agency precisely has in these operations and it has not been recognised by the European Council yet. Therefore, there exists a lack of juridical clarity with regards to Frontex activities in the field of the return operations where the rule of law and safeguarding persons are urgent (Carrera, 2007, p. 17). Besides, according to authors Mathiason, Parsons and Jeory (2015), it will be better if Frontex has a coordinative role by launching joint return operations (Mathiason, N., Parsons, V. and Jeory, T, 2015) in order to effectively manage the challenges at the external borders.

Training of agents

A range of commentators have considered some shortcomings in the competence of training agents. According to Rijpma (2010), Frontex should improve the awareness of national border guards in security issues. The agency can do this through its training activities which consist of exercises and seminars. Frontex is also able to do this within the Common Core Curriculum, as mentioned in the competences of Frontex, for border guards. Therefore, having a policy of human rights within the agency will increase the awareness of national border guards (Rijpma, 2010, p. 5).

In addition, Jorry (2007) claimed that a common core curriculum has been set up in order to have national training academies for border guards. Various training programmes have been established in several member states in order to teach linguistic and legal vocabulary to border guards for their

assistance in joint operations. These training programmes are also created for the control of persons who cross the external borders, and in respect of fundamental rights (Jorry, 2007, p. 16). The intention of Frontex with reference to training is to develop qualified control for the external borders. Based on the outcomes of risk analysis regarding instructions for border guards operations, such as, investigation activities, operations equipment and control activities, a common core curriculum can be established. Commissioned by the European Parliament, local agents operating in the area of the member state where the operation occurs, should visit these training conferences on the request of its local authority. However, this was not included in the founding regulation 2004 of Frontex, instead it is only mentioned in the founding regulation 2004 of Frontex that there are training tasks in collaboration with the member states where the operation takes place (Jorry, 2007, p. 16).

Jorry (2007) argued that one of the competences of Frontex is training border guards. The agency has established a common core curriculum in order to encourage mutual trust among member states on techniques and strategies of border control. However, training border guards is mostly concentrated on instructor guards rather than national border guards. It should be mentioned that this kind of conference will be beneficial to solve linguistic problems during joint operations. The founding regulation of 2004 does not mention the content of the training programmes (Jorry, 2007, p. 23). Instead, Frontex adopts the already existing training programme which is supervised by instructor guards who distributes the knowledge to its national border guards. The founding regulation 2004 of Frontex stated that it is allowed to establish training conferences in the area of a member state. Furthermore, it can be said that Frontex is only allowed to operate when member states demand the agency for support and member states remain accountable for the control of its external borders. The founding regulation of 2004 stated that member states should refrain from activities that could endanger the achievements of its goals and the functioning of the agency. Besides, member states should register all activities which take place outside the framework of Frontex (Jorry, 2007, p. 23).

Research

The shortcomings in the research competence of Frontex have also been assessed. According to the external evaluation of Frontex (2015), the agency should invest more in recognising particular threats in member states at their external borders, and therefore, the Research Unit of Frontex should find solutions for these threats. Instead, the research area of Frontex supplies member states with the recent and necessary information on new improvements and research only

(External evaluation of the Agency under Art. 33 of the Frontex Regulation Final report, 2015, p. 71).

Jorry (2007) claimed that the area of research and development is an important aspect of integrated border management. The agency is qualified to control the developments of scientific research in the management of external borders. The agency has to be capable of evaluating its techniques and methods during operational situations in order to improve this assignment. The agency should distribute current research developments to the member states and the Commission (Jorry, 2007, p. 17).

Rapid response capability

Commentators have also considered some shortcomings in the rapid response capability. According to Carrera and Guild (2010), the first deployment of RABITS was in 2010. This operation by Frontex exposed some of the main challenges in the junction of asylum policies and the external borders of Europe. However, Frontex has a lack of the principles of sharing responsibility and solidarity. This disputes the belief that the member states agreed the procedures of human rights and the procedures of asylum as incorporated in the instruments of the European Union. Especially, the member states that provide access to human rights dignity. It could be stated that the deployment of RABITs has failed and demonstrates a long-standing shortcoming of the European Union. The deployment of RABITs could be seen as merely a provisional emergency measure (Carrera, & Guild, 2010, p. 2/3). In addition, the rapid border intervention teams consist of national border guards which, therefore, still relies on the consensus of member states. Member states are not committed to deliver border guards in order to make these operations possible, for the reason that this occurs on a voluntary basis (Carrera, 2007, p. 11).

Cortinovis (2015) stated that regulation of 2007 had implemented a system of obligatory deployment of officers. The provision of border guards also depends on the request of member states and should also be based on annual bilateral agreements, unless in situations where a high migratory pressure exists (Cortinovis, 2015, p. 259). In 2010 the European Commission proposed the creation of a border guards pool from member states to the agency for a time period of one year and no longer than six months of deployment. However, it was difficult to have fully autonomous border guards leased as temporary officers because of legal and sovereign restrictions with regards to the commission of public authority to non-national officers in member states (Cortinovis, 2015, p. 260).

The European Commission applied the same legal basis to these border guards from member states as other guest officers. In this case, the European Commission stated that a certain level of harmonising with regards to the tasks of guest agents was a necessary condition for ensuring an appropriate application of operations. Moreover, guest officers who operate in the area of a member state should be permitted to accomplish all tasks for border surveillance and border control. However, this could only happen under the instructions of the host member states' agents (Cortinovis, 2015, p. 260).

Additionally, according to Carrera (2007), another aspect of the agency that has been criticised is that since the establishment of Frontex in 2004, there has been a political request from specific member states for rapid and immediate action by the agency to address the challenges at the external borders. The main reason for these requests by member states is that the activities of the agency are mostly only responses in case of emergencies (Carrera, 2007, p. 12).

An example of this can be seen in Spain on the Canary islands. Spain had a huge influence on the operation by bringing its national agenda to the European level. In 2006 there was a migratory crisis on the Canary Islands, whereby Spain blamed the European Union and Frontex for the problems caused by the irregular migratory crisis. Spain requested help from Frontex, such as technical equipment, with an effort to increase attention on the exceptional situation and the requirement for urgent and rapid response by the European Union in the Canary Islands (Carrera, 2007, p. 12). The irregular migratory crisis in the Canary Islands could be seen as a huge encroachment of illegal immigrants which had a great impact on the whole European Union and needed, therefore, an immediate European response. Spain considered this migratory crisis on the Canary Islands as a responsibility of the European Union, requiring the involvement of Frontex. The European Union was treated as a fall-guy for a remarkably politicised state of affairs during the migratory crisis in the Canary Islands (Carrera, 2007, p. 12/13). This situation showed that Frontex should always operate in situations where urgent actions should be taken.

Mathiason, Parsons and Jeory (2015) claimed that in 2011, migrants from the Arab Spring crossed the Mediterranean Sea, and consequently the number of migrants was very high. Frontex needed additional capacity to operate its activities adequately. Therefore, the agency should enhance its European border guard teams (former RABITs), supported by the staff from member states who worked under Frontex (Mathiason, N., Parsons, V. and Jeory, T, 2015). Moreover, technical equipment were also put together, such as airplanes, vehicles, and vessels. An example of Frontex's role in case of an emergency was at the Mediterranean Sea where migrants came from Libya. This

operation at the Mediterranean Sea was called as the Triton and Poseidon. Unfortunately, Frontex faced heavy shortcomings of technical equipment and staff because member states were unwilling to cooperate at the Mediterranean (Mathiason, N., Parsons, V. and Jeory, T, 2015).

Chapter 4: Background of the European Border and Coast Guard Agency

4.1.1 The establishment of the European Border and Coast Guard Agency

Frontex was established as a more effective and incorporated border management agency. Over the years, the competences of Frontex have been expanded in order to improve management of the external borders of the European Union. The effective management of external borders has become urgent as a reaction to the contemporary refugee crisis. However, this crisis has revealed that it was difficult for Frontex to manage external borders (A European Border and Coast Guard and effective management of Europe's external borders, 2015, p. 2). As mentioned in the literature review, Frontex faced some significant shortcomings. Therefore, the agency could not address the challenges at the external borders. As a result, the European Commission has proposed a new agency (Rijpma, 2016, p. 10): the European Border and Coast Guard Agency, under the Regulation (EU) 2016/1624 of the European Border and Coast Guard established by the European Council and European Parliament on 14 September 2016 (*Legal Basis*, n.d.) This new agency will manage external borders (Rijpma, 2016, p. 10). The European Border and Coast Guard Agency was launched on the 6 October 2016 (*European Agenda on Migration*, 2017).

The aim of this Regulation (EU) 2016/1624 is to implement a more integrated external borders management for the European Union. The European Border and Coast Guard Agency will have more competences than Frontex in terms of external border management. The regulation of the European Border and Coast Guard provides the European Border and Coast Guard Agency the supplementary competences to adequately implement an integrated border management at European level as a response to the high number of refugees who have arrived at the external borders of the European Union and to declare shortcomings of border management at national level (*Regulation of the European Parliament and of the Council*, 2015, p. 3).

These supplementary competences of the new agency is needed to prevent shortcomings of external border management or the influx of refugees threatening the appropriate functioning of the Schengen area. The refugee crisis has led to challenges which cannot be appropriately dealt with by member states themselves. Integrated border management is a collective responsibility of the European Border and Coast Guard Agency: the coast guards carry out border control tasks, and the national authorities are responsible for border management. All of these combined will constitute the European Border and Coast Guard Agency (*Regulation of the European Parliament and of the Council*, 2015, p. 3).

The European Border and Coast Guard Agency is one of the most visible policy responses to the current refugee crisis. As mentioned before, The European Border and Coast Guard Agency is built from Frontex with more competences which could help in appropriately responding to the current refugee crisis (Carrera, S. and Den Hertog, L., 2016, p. 2).

4.1.2 The competences of the European Border and Coast Guard Agency

The new agency of the European Border and Coast Guard has been established for a European integrated border management that protects the free movement of people and provides internal security within the European Union. European integrated border management consists of various measures in non-European countries with its bordering countries and measures within the Schengen Area which comprise the return of migrants who illegally stay in Europe. Compared to Frontex, the competences of the European Border and Coast Guard Agency will be reinforced. The European Border and Coast Guard is constituted of national governments and the agency of the European Border and Coast guard. Therefore, the national border guards are European border guards as well. The European Border and Coast Guard is in charge of the implementation of the activities of external border management. These activities are implemented affirmatively with common responsibilities (*Regulation of the European Parliament and of the Council*, 2015, p. 8/9).

The main elements of the new agency is to set up a technical and operational strategy in order to carry out an integrated border management at European level. The new agency will ensure a better functioning European border guard, in comparison with Frontex, by ensuring an enhanced technical and operational assistance in rapid border interventions and joint operation with member states (*Regulation of the European Parliament and of the Council*, 2015, p. 9). It will also implement evaluations on the weaknesses in order to make sure that shortcomings in external border management will come to light. Additionally, the European Border and Coast Guard will have a coordinative role in joint return operations and it will provide practical implementation of measures in case of emergencies at the external borders. Furthermore, the European Border and Coast Guard will be capable of deciding whether vulnerabilities exist at the external borders in order to prevent an enlargement of migration influx (*Regulation of the European Parliament and of the Council*, 2015, p. 9).

As mentioned before, the competences of the European Border and Coast Guard Agency will be reinforced. An overview of these enhanced competences follows. First, the European Border and Coast Guard will be supported by the European Maritime Safety Agency and the European Fisheries Control Agency, all of which will be capable of applying joint surveillance operations. National guards will participate in the activities of border controls of the European Border and Coast Guard. Moreover, the European Border and Coast Guard will have the competence to send liaison officers to third countries in order to apply joint operations in their area and to cooperate on these joint operations. Furthermore, liaison officers will be assisting member states where borders are at risk.

The European Border and Coast Guard will be capable of determining resource requirements, the ability to deploy technical equipment in order to observe the threats at the external borders and demand that the member states tackle these threats (*The European Border and Coast Guard*, n.d.). Liaison officers will be deployed in member states in order to monitor Eurosur, risk analysis and information sharing. The purpose of liaison officers is to stimulate collaboration between the European Border and Coast Guard and member states, to control the actions by the member states at the external borders and to gather information about the weaknesses at the external borders (*Regulation of the European Parliament and of the Council*, 2015, p. 9).

In addition, the European Border and Coast Guard will assure internal security. The agency will collaborate with international institutions and other European agencies on the prevention of terrorism and this will be incorporated in the risk analysis. Moreover, the European Border and Coast Guard will provide 1,500 specialists for its rapid reserve pool (*The European Border and Coast Guard*, n.d.). Additionally, the new agency will no longer have too little technical equipment and too few border guards for its operations. The agency strives to reach a figure for permanent border guards of 1,000 by the end of 2020. The new agency will be capable of obtaining its own equipment and of deploying a pool of technical equipment that is supplied by the member states (*The European Border and Coast Guard*, n.d.). This is based on the needs of the agency and by requiring that the pool of technical equipment will be carried out by means of operating and transport equipment acquired by member states under the Specific Actions of the Internal Security Fund (*Regulation of the European Parliament and of the Council*, 2015, p. 10).

The new agency will also be capable of supporting the European Commission by arranging the operations of the management support teams. Additionally, the European Border and Coast Guard will be able to arrange its own technical equipment pool, to launch its own European border guard teams for rapid border interventions and joint operations and it will get more power in risk analysis, research, training and return (*Regulation of the European Parliament and of the Council*, 2015, p. 10). The agency will be able to observe flows of migration in the European Union. The European Border and Coast Guard will have a supervisory role, enabling the agency to set up evaluation of the weaknesses, by evaluating the ability of member states to address the risks at their external borders. In addition to addressing risks at the external borders, the evaluation will also be focused on technical equipment and the border guards of member states. The Executive Director of the new agency will also determine the actions that need to be achieved within a certain period of time by member states. If actions are not achieved within that set period of time, then the issue will be

handed over to the Management Board of the agency. Consequently, if member states still do not take the required measures on time that would also put the Schengen Area in danger, and the European Commission is able to allow the European Border and Coast Guard to intervene in member states (Regulation of the European Parliament and of the Council, 2015, p. 9/10).

Therefore, another competence of the new agency will be that it will have the right to intervene. The European Border and Coast Guard is allowed to become involved and deploy European Border and Coast Guard Teams in member states where a significant migratory pressure persists (*The European Border and Coast Guard*, n.d.). The Commission has been assigned to take a decision that indicates the measures that have to be taken in areas where urgent actions against migratory pressure need to be taken at European level by the European Border and Coast Guard Agency. In addition, the Commission forces the member state concerned to collaborate with the European Border and Coast Guard Agency to execute those measures. Then, the European Border and Coast Guard Agency will make a determination whether the actions need to be taken for the execution of the measures indicated in the Commission decision, and the agency will intervene directly in the Member State concerned (*Regulation of the European Parliament and of the Council*, 2015, p. 10). Therefore, urgent actions at European level need to be taken. This pressure will endanger the Schengen area and the member states are not able to counteract these threats on their own or are unwilling to take actions (*The European Border and Coast Guard*, n.d.). Due to the establishment of a supervisory role by the agency, it will have a monitoring role in risk analysis. This enables the agency to implement risk analysis in order to recognise areas where a high pressure of migratory flows exist and to implement risk analysis which consists of all necessary elements of the integrated border management, such as, risk analysis of irregular migration within Europe, return, protection of cross-border crime, border control and of third countries (*Regulation of the European Parliament and of the Council*, 2015, p. 9).

Additionally, the European Border and Coast Guard will become a strengthening role in return operations. The agency will be assigned to deploy European Return Intervention Teams, for the reason that a European Return Office will be created within the European Border and Coast Guard. The European Return Intervention Teams will consist of return experts, guards, and supervisors who will aid by returning illegal third country citizens. This will be supported by providing a standard European travel document for return in order to create more acceptance by returning these third country nationals (*The European Border and Coast Guard*, n.d.). The new agency will establish a complaint mechanism to manage complaints about violations of fundamental rights. Since the

agency is not able to examine claims of violations of fundamental rights, an administrative mechanism of the agency will examine this (*Regulation of the European Parliament and of the Council*, 2015, p. 11).

The new agency will have enhanced competence in processing personal information for operations, such as, return interventions, pilot project, return operations, joint operations, rapid border interventions. Additionally, the agency will have a more powerful role in the transfer of information with Europol, the European Asylum Support Office, Eurojust, and member states. The European Border and Coast Guard will have enhanced collaboration with third countries by arranging operational collaboration between third countries and member states in external border management, such as, deploying liaison officers to third countries, the purchase of travel documents, joint operations, and the cooperation on return with third countries (*Regulation of the European Parliament and of the Council*, 2015, p. 11).

A rapid reserve pool will be created which is comprised of a small number of the total border guards in the member states on an annual basis. Supplementary European Border and Coast Guard Teams should deploy European Border and Coast Guard Teams from the rapid reserve pools (*Regulation of the European Parliament and of the Council*, 2015, p. 10). Moreover, the agency will contribute to the management of research and innovation which is necessary for external border control and for the application of surveillance technology, for instance, developing pilot projects and remotely piloted aircraft systems (*Regulation of the European Parliament and of the Council*, 2015, p. 11).

On 6 October 2016 the European Border and Coast Guard Agency will come into force and will start to operate from that moment (*European Border and Coast Guard: final approval*, 2016). The research question: "Does the European Border and Coast Guard have the competences to be a better functioning European border guard capable of addressing the shortcomings of Frontex?" will be answered in the results section. The result section will draw on the knowledge and information from previous chapters to give an answer. Whether the European Border and Coast Guard Agency really is an all-new agency with new and reinforced competences that is capable of addressing the shortcomings of Frontex, or whether it is merely a reloaded Frontex, needs to be examined.

Chapter 5: Results

5.1 Identification of the framework and its application for the European Border and Coast Guard Agency

According to the literature review, the shortcomings of Frontex have been considered by various assessors. These commentators agreed on the same key shortcomings for the agency. Due to these significant shortcomings of Frontex, the agency was not capable of effectively addressing and remedying the challenges created by the refugee crisis at the external borders of the European Union. The competences of this new agency have been outlined in the previous chapter. Below, the key shortcomings of Frontex are identified. The competences of the European Border and Coast Guard Agency are mentioned. Hereby, it is important to notice whether the competences of the European Border and Coast Guard will be reinforced and if it will contain new competences compared to Frontex. This is important in order to understand whether this new agency is capable of addressing the shortcomings of Frontex, since Frontex did not have appropriate competences to implement an effective border management. This is essential in order to understand whether the new agency will have the competences to be a better functioning border guard capable of addressing the shortcomings of Frontex. Therefore, each key shortcoming will be identified and each competence of the new agency, that is expected to address that particular key shortcoming of Frontex, will be outlined. Based on this, whether the key shortcomings can be resolved with the competences of the new agency is examined.

Joint operations

One of the shortcomings that has been considered as key for Frontex by most authors, is that Frontex faces a lack of its own technical equipment and border guards for their joint operations which should be provided by member states (Åkerblom, 2015; Cortinovic, 2015; Katsiaficas, 2014; Mathiason, Parsons, and Jeory, 2015; Monar and Rijpma, 2010; Carrera, 2007). When these resources were not provided by the member states or if member states did not have the required border guards, it was difficult for Frontex to implement their joint operations at the external borders (Åkerblom, 2015, p. 8; Cortinovic, 2015, p. 257; Katsiaficas, 2014, p. 8; Mathiason, Parsons and Jeory, 2015; Monar, n.d., p. 10; Rijpma, 2010, p. 2 & Carrera, 2007, p. 10).

In addition, during joint operations, Frontex mostly depends on the willingness of member states to cooperate during joint operations. Member states are not obliged to contribute, therefore, the Frontex has not always been able to continue its joint operations at the external borders

(Katsiaficas, 2014, p. 8; Dünwald, 2011; Spiegel, n.d., p. 30/31; Carrera, 2007, p. 10 & Mathiason, Parsons and Jeory, 2015).

According to Dünwald (2011) and Carrera (2007), Frontex also relies on the member states' consent in order to implement their joint operations on their territory or in order to operate in third countries (Dünwald, 2011 & Carrera, 2007, p. 10)

These shortcomings have been considered as key shortcomings in Frontex's joint operations by several authors. In order to resolve these shortcomings, the European Border and Coast Guard will be provided with new competences. The new agency is expected to have sufficient technical equipment and border guards for its operations. The European Border and Coast Guard Agency strives to employ 1,000 permanent border guards by the end of 2020 (*The European Border and Coast Guard*, n.d.). Additionally, the European Border and Coast Guard will be able to launch its own European border guard teams for joint operations. The European Border and Coast Guard is expected to be comprised of national governments and of the European Border and Coast Guard Agency (*Regulation of the European Parliament and of the Council*, 2015, p. 9/10).

In addition, the European Border and Coast Guard will be capable of deploying its own technical equipment pool itself or together with a member state, and to control a pool of technical equipment which is supplied by the member states (*Regulation of the European Parliament and of the Council*, 2015, p. 10). Moreover, the European Border and Coast Guard will have the ability to send liaison officers to non-European countries in order to apply joint operations in their territory and to collaborate on these operations. Liaison officers will be assisted by member states where borders are at risk. The European Border and Coast Guard will be capable of assessing the operational ability, deciding on resources and the technical equipment in order to observe the threats at the external borders and ask the member states to address these threats (*The European Border and Coast Guard*, n.d.).

Rapid response capability

Another shortcoming of Frontex that has been considered as key by several authors, such as Carrera (2007), is that the rapid border intervention teams consist of national border guards, meaning that Frontex is dependent on the consent of member states. Member states are not obliged to deliver border guards to make these rapid intervention operations possible (Carrera, 2007, p. 11). Cortinovis (2015) states that the provision of staff also relies on the request of member states. Guest officers operating in the area of a member state should be allowed to accomplish all

necessary tasks for border surveillance and border control. However, this could only occur under the guidance of the host member states' officers (Cortinovis, 2015, p. 260).

As mentioned in the section on joint operations, these shortcomings noted by Carrera (2007) and Cortinovis (2015) apply for both the joint operations and the rapid border interventions, since rapid border intervention teams, now known as the European border guard teams, can be deployed for both joint operations and rapid border interventions.

In order to remedy this shortcoming, a compulsory pool of border guards is expected to be established by setting up a rapid reserve pool comprised of border guards from member states. Additional European Border and Coast Guard Teams should be deployed from the rapid reserve pools (*Regulation of the European Parliament and of the Council*, 2015, p. 10). This rapid reserve pool will be capable of comprising 1,500 specialists and this agreement has been signed by the member states for the European Border and Coast Guard Agency and repealing Regulation (EC) No 2007/2004, Regulation (EC) No 863/2007 and Council Decision 2005/267/EC. These rapid reserve pools can be deployed within a couple of days. This will be made possible by the member states which will provide the technical equipment and staff (*The European Border and Coast Guard*, n.d.).

A new competence of the new agency is that it will have the right to intervene. The European Border and Coast Guard Agency will be permitted to deploy teams in member states where high migratory pressure persists. The Commission will adopt a decision identifying measures that need to be taken in areas where urgent actions against migratory pressure are required at European level by the European Border and Coast Guard Agency. The Commission requires the member state concerned to collaborate with the new agency in the implementation of those measures. The European Border and Coast Guard Agency will then decide whether the actions need to be taken for the implementation of the measures indicated in the Commission decision, and it will intervene directly in the member state concerned (*Regulation of the European Parliament and of the Council*, 2015, p. 10). Immediate actions at European level need to be taken, for the reason that, migratory pressures are endangering the Schengen area when the member states are unwilling or unable to counteract these threats themselves (*The European Border and Coast Guard*, n.d.).

Joint return operations

Frontex required an independent monitoring role in joint return operations in order to implement these operations more effectively (*External evaluation of the Agency under Art. 33 of the Frontex Regulation Final report*, 2015, p. 63 & Mathiason, N., Parsons, V. and Jeory, T, 2015). In addition, Mathiason, Parsons and Jeory (2015) declared that Frontex did not have a complaint procedure for migrants who have to be returned to their home countries. Due to these deficiencies the agency was not able to effectively implement this activity (Mathiason, N., Parsons, V. and Jeory, T, 2015).

According to Jorry (2007) and Carrera (2007), some arrangements with regards to joint return operations are not incorporated in the founding regulation of Frontex. This means that it was unclear what capacities Frontex had in joint return operations (Jorry, 2007, p. 17/18 & Carrera, 2007, p. 17). According to Jorry (2007), it was too early to establish an operational structure in the agency of Frontex that was responsible for the return operations due to the lack of a European common policy on immigration and asylum. The regulation does not mention the responsibility of having a coordination role (Jorry, 2007, p. 18). In any case, Frontex attempted to simplify operational collaboration with non-European countries within the European external association policy. Finally, it is not stated in the regulation 2004 of the agency that there will be cooperation with non-European countries in return operations. The collaboration with non-European countries are important for carrying out effective integrated border management (Jorry, 2007, p. 18).

It is intended that the European Border and Coast Guard Agency will establish a Return Office within the agency itself. This office should supply member states with all the required operational support to adequately return illegal immigrants. It is assumed that the European Border and Coast Guard Agency will coordinate and launch return interventions and return operations from member states (*Regulation of the European Parliament and of the Council*, 2015, p. 10). The European Border and Coast Guard Agency will have pools of compulsory return guards, return experts, and return supervisors, forming the European Return Intervention Teams. These teams will be provided by member states and will be deployed in the member states (*The European Border and Coast Guard*, n.d.). In addition, the new agency is expected to have stronger collaboration with non-European countries, and to arrange operational cooperation between non-European countries and member states for external border management. Additionally, the new agency will be capable of establishing a complaint mechanism to manage complaints about violations of fundamental rights (*Regulation of the European Parliament and of the Council*, 2015, p. 11). However, the new agency is not intended to have an independent monitoring role in joint return operations.

Risk analysis

Carrera (2007) and Spiegel (n.d.) agreed that the risk analysis has a lack of transparency since it consists of very sensitive data provided by member states. Therefore, the risk analysis is not revealed to the public. Consequently, it can be claimed that the risk analysis has a lack of democratic accountability, due to the exclusion of the European Parliament from those who are party to this information. However, this is very surprising since all joint operations by Frontex are based on the risk analysis (Spiegel, n.d., p. 26/27 & Carrera, 2007, p. 14). Rijpma (2010) argued that Frontex should carry out independent risk evaluation. The risk analyses are currently mainly based on the evaluations of member states. However, it could have been based on the activities of Frontex in order to better respond to the refugee crisis (Rijpma, 2010, p. 3).

The new agency is expected to have a bigger role in risk analysis. The European Border and Coast Guard Agency will have a supervisory role. The agency will have a risk analysis and monitoring centre in order to supervise the flows of migration to the European Union and within the European Union. The new agency will be capable of addressing risks at the external borders of member states (*Regulation of the European Parliament and of the Council*, 2015, p. 9). In addition, the new agency will be capable of implementing risk analysis which will be exercised by member states. This risk analysis will address all elements that are essential to the integrated border management, such as, return and border control (*Regulation of the European Parliament and of the Council*, 2015, p. 9). However, the regulation does not mention that the new agency will have transparent risk analysis and democratic accountability by including the European Parliament in the risk analysis information sharing. However, it can be argued that this is essential since all joint operations by Frontex are based on risk analysis and this issue is further discussed below.

Information sharing

According to Jorry (2007), the Commission proposed that the exchange of data and cooperation with other sectors associated with external border management, should consist of the exchange of general information about illegal immigration. However, the actual founding regulation of Frontex, indicates that there will be general cooperation with international institutions and Europol. The Commission also proposed horizontal cooperation with associated sectors, for instance, Customs, as a main aspect of integrated border management (Jorry, 2007, p. 17). Nevertheless, the founding regulation of Frontex does not mention such a collaboration. The exchange of information with international institutions, for instance, Interpol, Europol, and other sectors is essential for achieving effective integrated border management. These other organisations are very important for the

arrangement of operational collaboration of the activities of Frontex, especially for gathering information (Jorry, 2007, p. 17).

It is intended that the European Border and Coast Guard Agency will assure internal security. The agency will collaborate with international institutions and other European agencies on prevention of terrorism (*The European Border and Coast Guard*, n.d.). It is planned that the new agency will have a greater role in the processing of personal information in its operations, such as, return operations, joint operations, and rapid border interventions. Additionally, the agency is intended to have a bigger role in the transfer of information with Europol, the European Asylum Support Office, Eurojust, and member states (Regulation of the European Parliament and of the Council, 2015, p. 11). Liaison officers are expected to be deployed in member states in order to monitor Eurosur and information sharing. The purpose of liaison officers is to stimulate cooperation between the European Border and Coast Guard Agency and member states, to control the actions realised by the member states at the external borders, and to gather information about the weaknesses at the external borders (Regulation of the European Parliament and of the Council, 2015, p. 9).

Executive competence

According to several authors, such as, Åkerblom (2015), Jorry (2007), Spiegel (n.d.), Rijpma (2010) and Mathiason, Parsons, and Jeory (2015), Frontex does not have autonomous executive competences and could be more seen as an operational agency. Executive competence is not incorporated in the legal basis of the agency. Due to this lack of executive competence, the agency does not have the ability to provide its own resources. If Frontex were capable of providing this itself, it would be a better functioning border guard. Frontex simply has a coordinating role which makes it more difficult for the agency to fully implement its activities at the external borders (Åkerblom, 2015, p. 8; Jorry, 2007, p. 21; Spiegel, n.d., p. 25; Rijpma, 2010, p. 2 & Mathiason, N., Parsons, V. and Jeory, T, 2015).

However, as could be seen in the section concerning the new competences of the European Border and Coast Guard Agency, there is no mention made of the agency having autonomous executive competence within its activities.

Chapter 6: Analysis

The results section has provided knowledge and information about the key shortcomings of Frontex and the new competences of the European Border and Coast Guard Agency. In order to further develop understanding of the situation in relation to the research question, information from the results section is evaluated in this chapter. Each key shortcoming of Frontex and each competence of the European Border and Coast Guard Agency that is capable of resolving the key shortcomings will be analysed. In this way, one more step is taken to come closer to answering the research question: “Does the European Border and Coast Guard have the competences to be a better functioning European border guard capable of addressing the shortcomings of Frontex?”.

Joint operations

The first competence that will be analysed is joint operations. As mentioned in the literature review, the key shortcomings of Frontex’s joint operations is that it depends on the willingness of member states to cooperate and provide technical and human resources. Member states are not forced to contribute to these operations. Frontex also relies on the consent of member states to implement joint operations on their territory or in third countries.

In order to restore these significant shortcomings, the new agency of the European Border and Coast Guard is intended to have enhanced competences. The European Border and Coast Guard Agency should be able to deploy and control its own technical equipment pool or to do so in cooperation with a member state. However, this pool of technical equipment has to be provided and implemented by member states. This means that the agency only gets a coordinative role and it is expected that it would still rely on the member states. Thus, when member states do not provide or are not willing to provide the technical equipment pool, the agency is not able to function.

In addition, it is expected that the new agency will have more than a half of Frontex’s human resources. The European Border and Coast Guard aims for a permanent staff comprised of 1,000 border guards by the end of 2020. Consequently, the new agency is not expected to have insufficient resources for its operational activities. However, the border guards of the European Border and Coast Guard Agency will consist of national border guards. This means that the European Border and Coast Guard Agency still has to rely on the human resources provided by the member states. Thus, the agency is not expected to possess its own border guards. Besides, it is only stated that the European Border and Coast Guard Agency would like to aim for its own staff

comprised of 1,000 border guards by the end of 2020. It is, therefore, not certain when the agency will reach this number of staff and if it will reach this target. The member states are still in the position of deciding whether to provide their border guards to the agency. Since member states did not provide the required resources for Frontex, it would be unlikely that these required resources would be provided to the new agency, especially since the European Border and Coast Guard Agency is expected to have more resources Frontex had. Thus, the new agency still depends on the willingness and consensus of member states, since member states still have a role in making these operations possible. It therefore, seems unlikely that this shortcoming will be addressed. It appears that the solution for these key shortcomings will only be enhanced, rather than resolved. In addition, the European Border and Coast Guard Agency will have the competence to send liaison officers to third countries in order to apply joint operations in their area and to cooperate on these joint operations together with third countries. This means that the new agency is expected to be able to implement joint operations in third countries without the consent of member states.

Rapid response capability

Secondly, the literature review also shows that the key shortcoming of the rapid response capability is that the compulsory pool of border guards, which is named as the rapid reserve pool, is comprised of national border guards. As a result, Frontex is still dependent on the willingness of member states to provide these national border guards to the agency. Member states are not forced to contribute. Thus, Frontex was only able to implement the rapid reserve pool with the consensus of member states. A member state has to first ask the agency to deploy its rapid reserve pool in that particular member state. Therefore, the new agency will be capable of strengthening the rapid response capability by establishing a compulsory pool of border guards comprised of border guards from the member states.

It is intended that the rapid reserve pool will consist of 1,500 specialists who can be deployed within a short period of time. This deployment will be effected together with the provision of technical equipment by member states. According to the European Border and Coast Guard and repealing Regulation (EC) No 2007/2004, Regulation (EC) No 863/2007 and Council Decision 2005/267/EC, the member states have signed this regulation. Member states have agreed to provide 1,500 specialists to the European Border and Coast Guard Agency. Thus, in accordance with this regulation, the rapid reserve pools should be expected to function well.

Furthermore, the new agency is expected to have a new competence which is the right to intervene. Member states are able to request rapid border interventions, and deployment of

European border Guard teams to assist these rapid border interventions. Member states are able to request this in areas where high migratory pressure threatens the Schengen area and when member states are unable to take actions themselves. Therefore, the new agency is intended to have the right to intervene in member states, even when member states are unwilling to take action, or member states are not able to combat these threats themselves. The Commission is therefore, supposed to be able to implement a decision that determines the measures that have to be carried out in areas where urgent actions need to be taken at European level by the European Border and Coast Guard Agency. Besides, the Commission requires the member state concerned to cooperate with the European Border and Coast Guard Agency in the implementation of those measures. The new agency will then decide on the actions needed to be taken for the implementation of the measures indicated in the Commission decision, and it will intervene directly in the member state concerned. The European Border and Coast Guard Agency is therefore, intended to have its own chain of command by deploying European Border and Coast Guard teams from the rapid reserve pool in member states where high migratory pressure persists. The consequence of this is that the national border guards of the rapid reserve pool from member states have to follow the orders of the European Border and Coast Guard Agency.

Joint return operations

Thirdly, according to the literature review, the joint return operations of Frontex also faced significant shortcomings. Frontex did not have an independent monitoring role in return operations. The new agency is also not intended to have an independent monitoring role, since this is not incorporated in the competences of the new agency. Consequently, this shortcoming is not capable of being resolved.

The regulation of 2011 does not mention the coordination task. In order to address this shortcoming, the new agency is expected to establish a Return Office within the agency itself. This office is intended to enhance the role of the agency in return operations. This office will be capable of providing the member states with all the necessary operational assistance in order to adequately return illegal immigrants. Additionally, the new agency will be capable of coordinating return interventions and return operations from member states. Therefore, this shortcoming can be expected to be resolved.

In addition, the new agency will have a new competence in relation to the European Return Intervention Teams which should be provided and implemented by member states. The agency is still expected to rely on the willingness of member states to contribute and on the member states'

permission to operate on their territory. This means that the new agency is only capable of operating effectively when member states assist the agency with the required resources.

Frontex did not have a complaint procedure for migrants who have to be returned to their home countries. The new agency will be capable of establishing a complaint mechanism in order to manage complaints about violations of fundamental rights and to ensure the protection of fundamental rights. Since the agency is not able to examine claims of violations of fundamental rights, an administrative mechanism of the agency is expected to examine this. As a result, the new agency is expected to strengthen this competence and address this shortcoming.

Moreover, the founding regulation of Frontex supplied the simplification of operational collaboration with non-European countries within the European external association policy. However, it is not stated that there will be cooperation with non-European countries in return operations. Therefore, the new agency is expected to have a stronger cooperation with non-European countries by arranging operational cooperation between non-European countries and member states in external border management. Thus, it could be assumed that the cooperation on return with third countries will be enhanced and resolved. Therefore, the return operation is expected to be reinforced and implemented more effectively, due to this cooperation. Refugees that have to be returned back to their home country who remained in non-European countries can also be returned by the new agency.

Risk analysis

Fourthly, as stated in the literature review, some fundamental shortcomings need to be addressed in the competence of Frontex's risk analysis. The risk analysis has a lack of transparency and a lack of democratic accountability, due to the exclusion of the European Parliament from information sharing on this risk analysis. In addition, Frontex does not have an independent risk evaluation. The risk analyses are mainly based on the evaluations of member states. It is intended that the new agency will have an enhanced role in risk analysis. It will be able to observe flows of migration in the European Union. The European Border and Coast Guard Agency is expected to have a supervisory role. Due to the establishment of this supervisory role, the agency is expected to have a risk analysis and monitoring centre in order to supervise the flows of migration to the European Union and within the European Union. In addition, the new agency will be capable of coordinating risk analysis which will be exercised by member states.

The role of the agency in risk analysis is, therefore, expected to be reinforced rather than resolved. The new agency will be capable of coordinating risk analysis which will be exercised by member states. This means that the European Border and Coast Guard Agency does not have an independent role in risk analysis. The member states still have an input in the exercise of risk analysis. As a result, the new agency may not be able to implement risk analysis effectively when it is dependent on member states. In addition, It is not mentioned in the new agency regulation that risk analysis will be more transparent and that it will have democratic accountability through the inclusion of the European Parliament in the risk analysis. Therefore, this shortcoming cannot be expected to be resolved.

Information sharing

As indicated in the literature review, the Commission proposed that the exchange of data and cooperation with sectors associated with external border management, should consist of the exchange of general information about illegal immigration. However, the actual founding regulation of Frontex, indicates that there will only be general cooperation with international institutions. The Commission also proposed horizontal cooperation with associated sectors. Nevertheless, the founding regulation 2004 of Frontex does not mention such a collaboration. This cooperation is very important for the arrangement of operational collaboration of the activities of Frontex, especially for gathering information. The new agency is expected to enhance this competence in the processing of personal information in its operations. It is intended that the new agency will have a strengthened role in the transfer of information with Europol, the European Asylum Support Office, Eurojust, and member states. Thus, if the European Border and Coast Guard Agency can enhance and address the exchange of information, the arrangement of operational cooperation of the activities of the new agency, in particular gathering information, can be expected to improve. These international institutions play an important role in the effective functioning of European Border management.

In addition, a new competence of the new agency is that liaison officers will be able to be deployed in member states. The purpose of liaison officers is to stimulate the cooperation between the European Border and Coast Guard Agency and member states, to control the actions realised by the member states at the external borders and to gather information about the weaknesses at the external borders. Thus, the exchange of information is expected to be reinforced. Due to the deployment of liaison officers, the monitoring of the exchange of information will be improved.

Therefore, the vulnerabilities at the external borders can be better addressed and more specific actions can be taken.

Executive competence

As mentioned in the literature review, the main shortcoming of the founding regulation of Frontex is that it has no executive competence. Due to the exclusion of executive competence in the legal basis of the agency, Frontex could be more seen as an operational agency since Frontex does not have the ability to provide its own resources. The new agency should have executive competence in order to be a better functioning border guard. However, the European Border and Coast Guard Agency has not been incorporated with an autonomous executive competence and nearly all of its activities still depend on the contribution of member states. The activities of the agency cannot be implemented without the contribution of member states. Thus, the European Border and Coast Guard Agency is not capable of fully implementing its activities at the external borders of the European Union without the participation of the member states. The member states still provide the agency with assistance that make the implementation of most operations of the agency possible. The new agency would be a better functioning agency when having an independent executive role included in its activities.

Chapter 7 Conclusions and recommendations

7.1 Conclusions

In conclusion, the new agency is expected to have a strengthened role in joint operations. However, it is not expected that the European Border and Coast Guard Agency is capable of fully resolving the shortcomings Frontex faced in its joint operations, due to the continuing reliance on member states for border guards and technical equipment. Member states are still capable of deciding whether it will provide their border guards and equipment to the agency. This means that the European Border and Coast Guard Agency continues to have a coordinative role and still depends on the consensus and willingness of member states.

Secondly, the new agency is intended to have reinforced rapid response capability. Regardless of the fact that the rapid reserve pool consists of national border guards, the member states have agreed to provide at least 1,500 border guards for these operations. This shortcoming in Frontex operations should therefore be resolved. In addition, the new competence of the European Border and Coast Guard Agency, which is the right to intervene, means that member states have to follow decisions taken by the Commission and have to follow the orders of the European Border and Coast Guard Agency. The member states have signed up to this under the Regulation (EU) 2016/1624 of the European Border and Coast Guard established by the European Council and European Parliament, thus the new agency has the chain of command in the intervention operations. This also means that the new agency does not have to depend on member states in order to operate. The shortcoming of Frontex in this area can, therefore, be expected to be addressed and reinforced. Thirdly, the role of the new agency in joint return operations is expected to be only enhanced rather than fully resolved. The new agency is also not intended to have an independent monitoring role, since this is not incorporated in the competences of the new agency. The return intervention teams should be provided by member states and will be deployed in member states. The agency is still expected to rely on the willingness of member states to contribute and on the member states' permission to operate on their territory. Fourthly, the role of the new agency in risk analysis should be reinforced, due to the introduction of a new supervisory role. The new agency will have a risk analysis and monitoring centre in order to supervise the flows of migration to the European Union and within the European Union. However, the implementation of risk analysis is still expected to be exercised by member states. This means that the new agency does not have an independent role in the risk analysis. The new agency regulation do not state that risk analysis will be more transparent and that there will be democratic accountability through the inclusion of the European

Parliament in sharing of information concerning risk analysis. The shortcomings experienced by Frontex in risk analysis will not be resolved.

Fifthly, The new agency is intended to have enhanced competence in information sharing. The agency is expected to have a strengthened role in the transfer of information with Europol, the European Asylum Support Office, Eurojust, and member states. Thus, this also means that the shortcoming Frontex had in its regulation would be resolved in the new agency of the European Border and Coast Guard.

Finally, the new agency does not have independent executive competences. It could be said that it is not capable of fully implementing most of its activities independently at the external borders of the European Union without the contribution of the member states. If the European Border and Coast Guard Agency had executive competence, it would be capable of possessing its own border guards and technical equipment. This means that it would not depend on the willingness, consensus and resources of member states to continue its operations. As previously demonstrated, Frontex could not always implement its activities effectively, due to the lack of member states' contributions. The agency would be a better functioning border guard when having such an executive competence.

7.2 Recommendations

Based on the most important findings that have been analysed, this section provides recommendations for the European Union that it needs to give higher priority to policies dealing with the structural compliance of European border management by all member states. Recommendations on each competence of the European Border and Coast Guard Agency will be given below. These recommendations are necessary in order to improve the functioning of the European border guard.

- Joint operations: the border guards should consist of European border guards instead of national border guards. The agency should possess its own European border guards for its joint operations. The new agency should have its own technical equipment pool in its joint operations. It should not merely have a coordinating role, instead, it should have an executive role in joint operations. It should not be dependent on the contribution of member states, since member states are not required to assist the agency.
- The European Return Intervention Teams should be independent from member states. These teams consist of national border guards from member states. National border guards can only be deployed on the consensus of member states. Therefore, the new agency should have European border guards that can be deployed at any time. If having its own European border guards, the agency would not have to wait on decisions on whether the member states are willing to provide this personnel. Therefore, the new agency should have its own resources and it should have an autonomous monitoring role in joint return operations in order to effectively implement this activity.
- The new agency should implement and exercise the risk analysis itself in order to better address threats at the external borders. The new Agency should have a risk analysis capacity which should be transparent and should have democratic accountability through inclusion of the European Parliament in the risk analysis. This is essential since all joint operations by Frontex are based on risk analysis.
- The executive power should be incorporated in the legal basis of the new agency in order to better implement its activities. When the agency still has to depend too much on the member states, it will be problematic to fully implement its activities. As previously demonstrated, Frontex could not always implement its activities effectively, due to the lack of member states' contributions.

References

A European Border and Coast Guard and effective management of Europe's external borders.

(n.a.) (2015, December 15). European Commission. Retrieved on November 28, 2016, from the Web site of the European Commission: [http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/securing-eu-borders/legal-documents/docs/communication -
a european border and coast guard and effective management of europes external
al_borders_en.pdf](http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/securing-eu-borders/legal-documents/docs/communication_-_a_european_border_and_coast_guard_and_effective_management_of_europes_external_borders_en.pdf)

Åkerblom, A. (2015). *Frontex and the right to seek asylum A critical discourse analysis*. Retrieved on January 2, 2017, from Google Books, the PDF file of Malmö University Web site: [https://dspace.mah.se/bitstream/handle/2043/18904/Frontex and the right to seek a
sylum-Alicia Lopez Akerblom.pdf?sequence=2&isAllowed=y](https://dspace.mah.se/bitstream/handle/2043/18904/Frontex_and_the_right_to_seek_a_sylum-Alicia_Lopez_Akerblom.pdf?sequence=2&isAllowed=y)

Bermejo, R. (n.d.). *The area of Freedom, Security and Justice and its Borders. New Institutions to cope with immigration flows*. Retrieved on November 17, 2016, from the PDF file of the Asociación Española de Ciencia Política y de la Administración Web site: [http://www.aecpa.es/uploads/files/congresos/congreso_09/grupos-
trabajo/area06/GT04/04.pdf](http://www.aecpa.es/uploads/files/congresos/congreso_09/grupos-trabajo/area06/GT04/04.pdf)

Carrera, S. (2007, March). *The EU Border Management Strategy FRONTEX and the Challenges of Irregular Immigration in the Canary Islands*. Retrieved on October 23, 2016, from the Centre for European Policy Studies Web site: [file:///C:/Users/Floortje/Downloads/SSRN-id1338019%20\(2\).pdf](file:///C:/Users/Floortje/Downloads/SSRN-id1338019%20(2).pdf)

Carrera, S. and Den Hertog, L. (2016, March). *A European Border and Coast Guard: What's in a name?* Retrieved on October 23, 2016, from the PDF file of the Centre for European Policy Studies Web site:

<https://www.ceps.eu/system/files/LSE%20No%2088%20SC%20and%20LdH%20EBCG.pdf>

Carrera, S. and Guild, E. (2010, November). *Joint Operation RABIT 2010 – FRONTEX Assistance to Greece's Border with Turkey: Revealing the Deficiencies of Europe's Dublin Asylum System*. Retrieved on December 6, 2016, from the PDF file of the Centre of European Policy Studies:

http://aei.pitt.edu/15186/1/No_34_Carrera_%26_Guild_on_RABIT_2010.pdf

Cortinovis, R. (2015). *'The Evolution of Frontex Governance: Shifting from Soft to Hard Law?'* Retrieved on January 2, 2017, from the PDF file of Journal of Contemporary European Research Web site: [file:///C:/Users/Floortje/Downloads/680-3734-1-PB%20\(1\).pdf](file:///C:/Users/Floortje/Downloads/680-3734-1-PB%20(1).pdf)

Dünnwald, S. (2011). *On Migration and Security: Europe managing migration from Sub-Saharan Africa*. Retrieved on January 2, 2017, from the Web site of the Hague University digital library: http://easy.squareis.com/http/cea.revues.org/430?&__x=0718

Desperate Journey: Europe's Refugee Crisis. (n.a.) (2015, November 16). Retrieved on March 1, 2017, from the Human rights watch Web site: <https://www.hrw.org/video-photos/video/2015/11/16/desperate-journey-europes-refugee-crisis>

EU Responds to Migrant Crisis By Creating New Border Guard Agency. (n.a.) (2016, October 6). The Voice of America. Retrieved on October 23, 2016, from the Voice of America news Web site: <http://www.voanews.com/a/eu-launches-new-border-guard-agency-in-response-to-migrant-crisis/3539216.html>

European Agenda on Migration: Commission reports on progress in making the new European Border and Coast Guard fully operational. (n.a.) (2017, January 25). European Commission: Press release data base. Retrieved on February 13, 2017 from the Web site of the European Commission: http://europa.eu/rapid/press-release_IP-17-123_en.htm

European Agenda on Migration: Why a new European Agenda on Migration? (n.a.) (n.d.). Migration and Home Affairs. Retrieved on October 22, 2016, from the Web site of Migration and Home Affairs: http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/european-agenda-migration/index_en.htm

European Border and Coast Guard Agency (Frontex). (n.a.) (n.d.). European Union. Retrieved on November 18, 2016, from the Web site of the European Union: https://europa.eu/european-union/about-eu/agencies/frontex_en

European Border and Coast Guard: final approval. (n.a.) (2016, September 14). The Council of the European Union. Retrieved on November 28, 2016, from the Council of the European Union Web site: <http://www.consilium.europa.eu/en/press/press-releases/2016/09/14-european-border-coast-guard/>

European Member Countries. (n.a.) (n.d.). European Union. Retrieved on February 17, 2017, from the Web site of the European Union: https://europa.eu/european-union/about-eu/countries/member-countries_en

External evaluation of the Agency under Art. 33 of the Frontex Regulation Final report. (2015, July). Frontex. Retrieved on December 5, 2016, from the Frontex Web site: http://frontex.europa.eu/assets/Publications/General/Final_Report_on_External_Evaluation_of_Frontex.pdf

Frontex Origin. (n.a.) (n.d.) Frontex. Retrieved on October 23, 2016, from the Frontex Web site:
<http://frontex.europa.eu/about-frontex/origin/>

Gavelstad , I. (2013, February). *Protection of Borders or protections for Refugees?* Retrieved on November 16, 2016, from the the PDF file of the Web site of Oslo and Akershus University College of Applied Sciences:
[file:///C:/Users/Floortje/Downloads/Gavelstad Ingunn s140933 MIS300%20\(1\).pdf](file:///C:/Users/Floortje/Downloads/Gavelstad%20Ingunn%20s140933%20MIS300%20(1).pdf)

General report. (n.a.) (2011). Frontex. Retrieved on December 5, 2016, from the Statewatch Web site:
http://www.statewatch.org/observatories_files/frontex_observatory/General_Report_2011.pdf

Giannetto, L. (2012). *The Borders of Accountability: the Case of FRONTEX.* Retrieved on October 23, 2016, from the PDF file of the Statewatch Web site:
http://www.statewatch.org/observatories_files/frontex_observatory/leila-giannetto-thesis-frontex-full.pdf

Guild, E., Costello, C., Garlick, M. and Moreno-Lax, V. (2015, September). *The 2015 Refugee Crisis in the European Union.* Retrieved on October 23, 2016, from the PDF file from the Centre for European Policy Studies Web site:
https://www.ceps.eu/system/files/CEPS%20PB332%20Refugee%20Crisis%20in%20EU_0.pdf

Jorry, H. (2007, March). *Construction of a European Institutional Model for Managing Operational Cooperation at the EU's External Borders: Is the Frontex Agency a decisive step forward?* Retrieved on October 23, 2016, from the Centre for European Policy Studies Web site:
<https://www.ceps.eu/system/files/book/1483.pdf>

Justice, Freedom and Security in Europe since 2005: an evaluation of the Hague Programme and Action plan. (n.a.) (2009, June 10). Commission of the European Communities. Retrieved on November 17, 2016, from the PDF file of the Statewatch Web site:
<http://www.statewatch.org/news/2009/jun/eu-com-2009-263-hague.pdf>

Katsiaficas, C. (2014). *Search and Rescue Operations in the Mediterranean: The Role of Frontex Plus.* Retrieved on January 2, 2017, from the PFD file of bridging Europe Web site:
[http://www.bridgingeurope.net/uploads/8/1/7/1/8171506/working_paper_katsiaficas_o
ctoberwp13.pdf](http://www.bridgingeurope.net/uploads/8/1/7/1/8171506/working_paper_katsiaficas_octoberwp13.pdf)

Legal Basis. (n.a.) (n.d.). Frontex. Retrieved on November 18, 2016, from the Official Frontex Web site: <http://frontex.europa.eu/about-frontex/legal-basis/>

Mathiason, N., Parsons, V. and Jeory, T. (2015, September 15). *Europe's Refugee crisis: Is Frontex bordering on chaos?* Retrieved on December 6, 2016, from the Bureau of investigative journalism: <http://labs.thebureauinvestigates.com/is-frontex-bordering-on-chaos/>

Mission and tasks. (n.a.) (n.d.) Frontex. Retrieved on November 28, 2016, from the official Frontex Web site: <http://frontex.europa.eu/about-frontex/mission-and-tasks/>

Monar, J. (n.d.). *The Project of a European Border Guard: Origins, Models and Prospects in the Context of the EU's Integrated External Border Management.* Retrieved on January 2, 2017, From the Google Books Web site:
file:///C:/Users/Floortje/Downloads/10_paper_Monar.pdf

Opera application. (n.a.) (n.d.) *Asseco Poland*. Retrieved on December 6, 2016, from the Asseco Poland Web site: <https://pl.asseco.com/en/sectors/uniformed-services/security-sector/opera-application-379/>

Regulation of the European parliament and the European Council: on the European Border and Coast Guard and repealing Regulation (EC) No 2007/2004, Regulation (EC) No 863/2007 and Council Decision 2005/267/EC. (n.a.) (2015, December 15). European Commission. Retrieved on December 8, 2016, from the PDF file of the European Commission: http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/securing-eu-borders/legal-documents/docs/regulation_on_the_european_border_and_coast_guard_en.pdf

Report on the evaluation and future development of the FRONTEX Agency. (n.a.) (2008, February 13). Commission of the European Communities. Retrieved on November 18, 2016, from the PDF file of the Web site of the European Commission <http://194.242.234.211/documents/10160/10704/COMMISSION+-+Report+FRONTEX+Agency>

Rijpma, J. (2010, April 13). *Frontex: Successful blame shifting of the Member States?* Retrieved on December 6, 2016, from the PDF file of Real Instituto Elcano: https://www.files.ethz.ch/isn/117232/ARI69-2010_Rijpma_Frontex_Memeber_State_European_Union.pdf

Rijpma, J. (2016, March). *The proposal for a European Border and Coast Guard: evolution or revolution in external border management?* Retrieved on November 19, 2016, from the PDF file of the European Parliament: [http://www.europarl.europa.eu/RegData/etudes/STUD/2016/556934/IPOL_STU\(2016\)55693_4_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2016/556934/IPOL_STU(2016)55693_4_EN.pdf)

Role. (n.a.) (n.d.). Frontex. Retrieved on December 1, 2016, from the Frontex Web site:

<http://frontex.europa.eu/research/role/>

Ruskyte, M. (2014). *The European Union Agency's FRONTEX mandate and operations in the framework of transparency and human rights*. Retrieved on October 23, 2016, from the PDF file of the University of Tilburg : <http://arno.uvt.nl/show.cgi?fid=134388>

Saving Schengen: Building a European Border Management System. (n.a.) (2016, February 23).

Union of European Federalists. Retrieved on October 23, 2016, from the Union of European Federalists Web site: <http://www.federalists.eu/index.php?id=22846>

Schengen Agreement. (n.a.) (n.d.) *Schengen Visa Information*. Retrieved on November 15, 2016, from the Web site of Schengen visa Information:

<http://www.schengenvisainfo.com/schengen-agreement/>

Schengen Area Countries List. (n.a.) (n.d.). *Schengen visa info*. Retrieved on October 23, 2016, from the Web site of Schengen visa information:

<http://www.schengenvisainfo.com/schengen-visa-countries-list/>

Securing Europe's external borders. (n.a.) (2015, September 9). European Commission. Retrieved on November 28, 2016, from the Web site of the European Commission:

http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/securing-eu-borders/fact-sheets/docs/a_european_border_and_coast_guard_en.pdf

Smetana, S. (2013, May). *The development of Frontex: in the light of European Integration*.

Retrieved on November 17, 2016, from the PDF file of Lund University:

<http://lup.lub.lu.se/luur/download?func=downloadFile&recordId=3800048&fileId=38>

107 76

Spiegel, E. (n.d.) *FRONTEX: Legitimate Agent for Border Security or Ruthless Deportation Agency?*

Retrieved on January, 2, 2017, from the PDF file of the University of Twente:

http://essay.utwente.nl/60253/1/BSc_E_Spiegel.pdf

The European Border and Coast Guard. (n.a.) (n.d.) Europeadia. Retrieved on November 28, 2016,

from the Europeadia Web site: <http://europedia.moussis.eu/discus/discus-1453716794-282737-11976.tkl>

The Hague Programme : strengthening freedom, security and justice in the European Union. (n.a.)

(2004, December 13). The Council of the European Union. Retrieved on November 17, 2016, from the PDF file of the European Council Web site:

http://ec.europa.eu/home-affairs/doc_centre/docs/hague_programme_en.pdf

Verhoeven, N. (2014). *Wat is onderzoek?: Praktijkboek voor methoden en technieken.* The Hague. Boom Lemma.

Wachter, A. (2012). *"Frontex: Protecting the European Union from the Arab Spring?*

Europeanization, Securitization and the Management of Migration". Retrieved on November 23, 2016, from the PDF file of Vienna University:

http://othes.univie.ac.at/24707/1/2012-12-17_0804761.pdf

Student Ethics Form

European Studies Student Ethics Form

Your name: Floorje de Vries

Supervisor: Ms. Gabrovská

Instructions/checklist

Before completing this form you should read the APA Ethics Code (<http://www.apa.org/ethics/code/index.aspx>). If you are planning research with human subjects you should also look at the sample consent form available in the Final Project and Dissertation Guide.

- a. ☐ Read section 3 that your supervisor will have to sign. Make sure that you cover all these issues in section 1.
- b. ☐ Complete sections 1 and, if you are using human subjects, section 2, of this form, and sign it.
- c. ☐ Ask your project supervisor to read these sections (and the draft consent form if you have one) and sign the form.
- d. ☐ Append this signed form as an appendix to your dissertation.

Section 1. Project Outline (to be completed by student)

(i) Title of Project: The European Border and Coast Guard

(ii) Aims of project: To examine whether the European Border and Coast Guard has the competences to be a better functioning European Border Guard that is capable to restore the shortcomings of Frontex

(iii) Will you involve other people in your project – e.g. via formal or informal interviews, group discussions, questionnaires, internet surveys etc. (Note: if you are using data that has already been collected by another researcher – e.g. recordings or transcripts of conversations given to you by your supervisor, you should answer 'NO' to this question.)

YES / ☒ NO

If no: you should now sign the statement below and return the form to your supervisor. You have completed this form.

This project is not designed to include research with human subjects. I understand that I do not have ethical clearance to interview people (formally or informally) about the topic of my research, to carry out internet research (e.g. on chat rooms or discussion boards) or in any other way to use people as subjects in my research.

Student's signature F. de Vries -

date 21/02/2017

If yes: you should complete the rest of this form.

Section 2 Complete this section only if you answered YES to question (iii) above.

(i) What will the participants have to do? (v. brief outline of procedure):


(ii) What sort of people will the participants be and how will they be recruited?

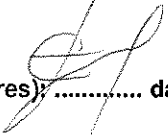
(iii) What sort stimuli or materials will your participants be exposed to, tick the appropriate boxes and then state what they are in the space below?

Questionnaires[]; Pictures[]; Sounds []; Words[]; Other[].

(iv) **Consent:** Informed consent must be obtained for all participants before they take part in your project. Either verbally or by means of an informed consent form you should state what participants will be doing, drawing attention to anything they could conceivably object to subsequently. You should also state how they can withdraw from the study at any time and the measures you are taking to ensure the confidentiality of data. A standard informed consent form is available in the Dissertation Manual.

(vi) What procedures will you follow in order to guarantee the confidentiality of participants' data? Personal data (name, addresses etc.) should not be stored in such a way that they can be associated with the participant's data.

Student's signature:  date: 21/02/2017

Supervisor's signature (if satisfied with the proposed procedures):  date: 22/2/2017