

**EUROPE IS AT WAR**

**AGAINST AN**

**IMAGINARY ENEMY**

**FRONTEX [EXIT]**

# EUROPE IS AT WAR AGAINST AN IMAGINARY ENEMY

For the last 20 years, European migration policies have been guided by an exclusively security-based and almost military approach limited to border controls: visas issued only to a select few, the building of walls and fences, forced return to “third” countries and externalisation to fragile or authoritarian States.

And yet Europe is not threatened by invasion: in 2014, non-European nationals represented close to 4% of the total number of residents in the European Union (EU) according to (Eurostat). In 2015, approximately one million people presented themselves at the gates of the EU (IOM), i.e. 0.2% if its total population of almost 510 million. Furthermore, Europe is not the main region affected by migratory movements: almost 90% of the world’s 21.3 million refugees were hosted by countries in the “South” in 2015 (United Nations High-Commissioner for Refugees - UNHCR).

Access to mobility remains the poor relation of the EU’s commitments, although this is the key element which is required to assert the right to leave any country, the right to family reunification, to reduce the dangers encountered along the migration routes and to enable people to successfully undertake their migration project.

**International law establishes the right to mobility by declaring the right of anyone to leave any country, including their own, and to return to it.**

**It also protects anyone who is migrating, regardless of their status, against any form of ill-treatment and violation of their rights, including in case of return to “a third country” (non-refoulement principle).**

**Does the EU’s migration policy meet with these obligations? Is it in line with the current issues regarding international migration?**

**We propose to deconstruct these received ideas by answering “yes” or “no” to ten statements.**

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# WHAT IS [FRONTEX]?

In October 2004, the European Union established the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union, known as Frontex and based in Warsaw, in order to prevent access to its 42,000 km of coastline, 9,000 km of land borders and 300 international airports.

Frontex was integrated within the “European Border and Coast Guard” in 2016 and now enjoys greater powers and resources (financial, human, technical). Standing as the armed wing of the EU, it is a key actor in European migration policy.

Frontex’s resources have kept increasing since its creation (€19 million in 2006, €97 million in 2014, €254 million in 2016, in other words a 1,336% increase in ten years). Frontex benefits from having its own legal personality, a high degree of autonomy and is able to sign agreements with non-EU countries without being subject to the democratic control of national or regional parliaments.

Who is responsible in the event of human rights violation? The agency, the country in which an operation is being carried out, or the country of the official who committed the infringement? What effective measures have been put in place to guarantee access to rights for people migrating? What guarantee does the agency present in terms of respect for the principle of non-refoulement, particularly in the context of maritime operations?

## Military resources at the service of an almost entirely independent civil agency

Frontex’s lack of transparency, its resources, it analyses and its lack of accountability often lead to it being compared to an army deployed at Europe’s borders. In theory, it is a civil agency, but it has clear and substantial links with military cooperation. Equipped with a growing arsenal, it regularly brings military/industrial companies together to promote the development of control technologies (surface contact sensors, thermal cameras, robotics, drones) at European borders, which companies such as Thalès, EADS, Finmeccanica and others intend to make available for both military and civil use. Moreover, since 2013, Frontex has been managing Eurosur, a satellite system deployed at the external borders of the Schengen area.

# [1] EVERYONE HAS THE RIGHT TO MIGRATE...

**[TRUE]** The Universal Declaration of Human Rights (1948) and the International Covenant on Civil and Political Rights (1966) both enshrine the right to “leave any country, including one’s own, and to return to one’s country”. In practice, this right is only enjoyed by nationals of countries “in the North” and well-off nationals of countries “in the South”. In fact, the movement of nationals of “southern” countries is subject to very strict conditions and is impeded as a result.

Many people decide to give up on their intention to migrate when their visa application is refused, whilst others opt for irregular ways of entering another country which prove increasingly dangerous since they are not able to embark upon their journey legally. Once they arrive in Europe, left “undocumented”, they are not able to go any further.

## ...But this right is impeded

The restrictions imposed on the right to leave any country are increasing in number, particularly through the introduction of measures to declare “illegal emigration” a criminal offence (Morocco, Algeria, Tunisia, Egypt), which is in contradiction with international law. Other countries (Senegal, Niger) are deviating from their domestic legislation to combat human trafficking so as to undertake legal action against people who wish to leave their country. The EU is encouraging countries it cooperates with to establish strict controls at their own borders and is also funding the implementation of control tools and instruments, especially in West Africa.

Despite the launch of the “Global Approach to Migration and Mobility” in 2011, a vast array of means and resources are being used by the EU to block people’s movement. In this way, readmission agreements are negotiated with “third” countries so that they readmit their nationals expelled from the EU, as well as those who are believed to have transited through their country. The EU also funds sophisticated border control systems and provides training to non-EU border guards and to coast guards (Libya, Jordan, Tunisia).

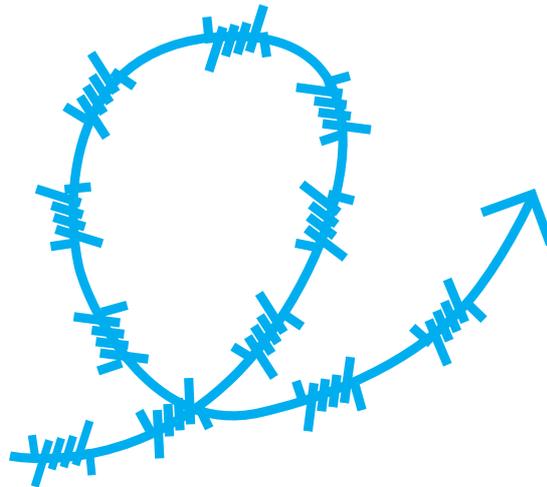
# [2] MIGRATION MOVEMENTS GO FROM POOR TO RICH COUNTRIES

# [FALSE]

The majority of people who move for economic reasons or in search of protection do so within their own country or to

a neighbouring country. In 2015, there were 244 million international migrants, i.e. 3.3% of the world population. Only one third of them migrated from a developing country to a developed country. This means that 60% of migrations occur between countries which have the same level of development.

*(United Nations Development Programme, 2014; United Nations Report on Migration, 2015).*



# [3] EUROPE ALREADY HOSTS A LARGE NUMBER OF REFUGEES!

**Impediments to seeking refuge:  
the obstacle of airport transit visas**

In the context of consulates being closed in Syria, 12 EU Member States, including France, Italy, Germany, Spain and Belgium now require Syrians who wish to transit through their country in order to go to another State to be in possession of an Airport Transit Visa (ATV). The ATV

**[TRUE]** In 2016, the EU registered 1.204,300 asylum applications (notably from Syria, Afghanistan, Iraq, Kosovo, Serbia, Eritrea). Germany, which received 441,900 asylum requests in 2015, is the world's leading recipient of applications, followed by the United States, Sweden, the Russian Federation and Turkey. Caution is required, however as "registering" applications for asylum does not mean "protecting" refugees: in 2015, only one in two persons was granted protection status.

**[FALSE]** 86% of the 65.3 million refugees and internally displaced are to be found in developing countries. Most of them live near the country which they have fled. In 2015, Turkey received the highest number of refugees in the world (2.5 million registered refugees), followed by Pakistan, Lebanon, Iran, Ethiopia and Jordan. Only 6 % of the world's refugees are in Europe. (UNHCR, 2016 - Eurostat, 2016).

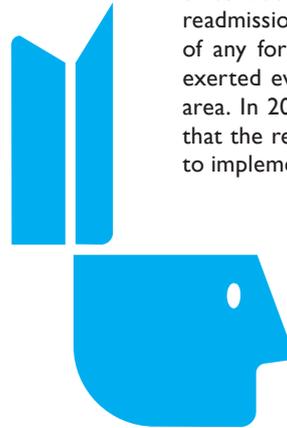
is designed to prevent travellers transiting in a European airport, who do not have a visa for a short or long term stay, from entering the country through the back door. These specific visas are only very rarely granted, making it practically impossible for Syrian citizens to arrive in these countries by aeroplane. It is therefore nearly impossible for them to apply for protection when in transit in an international airport, which is a violation of the right of asylum.

**[4] IF THE COUNTRIES IN THE SOUTH WERE DEVELOPED, PEOPLE WOULD NOT WANT TO LEAVE THEM**

**[FALSE]**

Studies show that development first leads to migration because a part of the population which is better-off can decide to migrate. The idea of using Official Development Assistance (ODA) to ensure that populations remain in their own country is, therefore, based on an incorrect analysis. Development is an end in itself and must not be linked to migration policies. However, some European countries and actors do use ODA to finance actions aimed to “combat immigration” or even “emigration”.

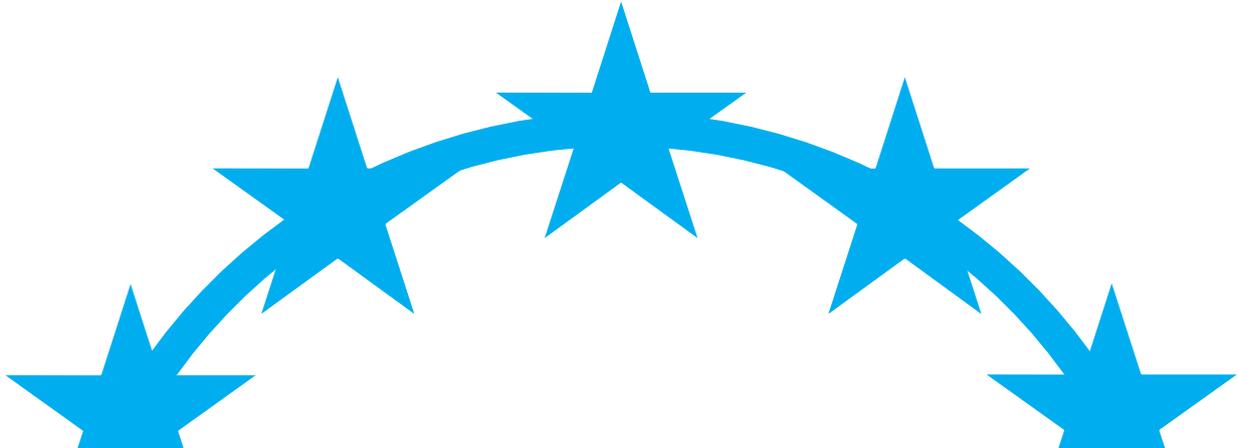
Since 2001, the EU has imposed the signing of a readmission agreement as a condition for the granting of any form of cooperation and, since 2015, it has exerted even greater pressure on the States in this area. In 2016, more than 130 NGOs denounced the that the rerouting of cooperation policy with a view to implement a repressive migration policy.



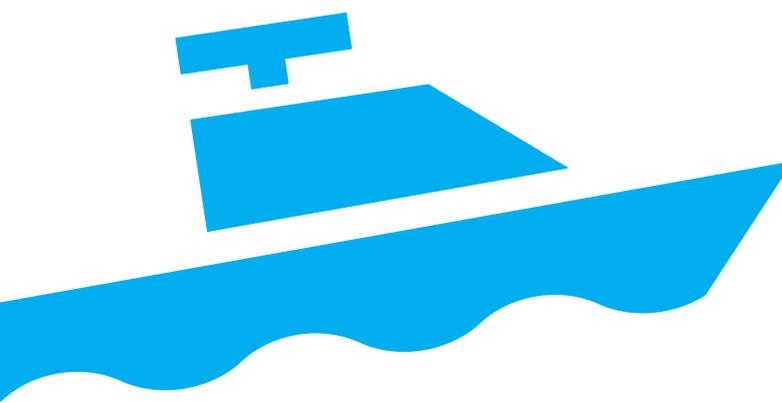
# [5] THE EU CONTROLS ONLY ITS OWN BORDERS

Over the past 20 years, the EU has “externalised” its migration policies in order to delegate the management of migratory movements to “third” countries. In particular, it is relocating its border controls and Frontex is an agent of this externalisation process: training of foreign border guards and coast guards, cooperation and exchange of information on migration patterns with over 43 countries throughout the world, deployment of staff outside of Europe, administration and management of “return flights” for people who have been expelled.

# [FALSE]



# [6] FRONTEX IS A RESCUE AGENCY



The agency's new mandate integrates the 2014 European Regulation on maritime operations which requires Frontex to

**[FALSE]**

provide assistance to persons in distress at sea. This acts as a reminder of the obligations incumbent upon any ship under the international law of the sea and does not make Frontex a rescue agency. Its mandate refers exclusively to the control of borders and the fight against the irregular crossing of the external borders. The EU's priority, therefore, is not to rescue people, rather it is the fight against so-called clandestine immigration.

In the absence of legal and safe channels to access the European territory, the task of giving assistance to persons at seas very often falls to civilian crews - merchant navy or boats chartered by NGOs – (40% according to Frontex), despite their limited means and resources. This leads to them being criticised by the director of Frontex, who wrongly accuses them of collusion with smugglers.

# [7] EUROPEAN MIGRATION POLICIES HAVE DEADLY CONSEQUENCES

**[TRUE]** The current security-based migration policies do not prevent people from migrating. Instead, they encourage them to embark upon journeys which are increasingly dangerous. The rescue and protection of migrants would appear to be considered as constraints rather than as a priority action. The building of walls, the development of military resources to control borders and the efforts deployed to block migrants even before they have left their country of origin or of transit cause human tragedies every year. The number of deaths and disappearance in the Mediterranean keeps increasing: 3,700 people died or went missing in 2015 (UNHCR) and over 5,000 perished in 2016 (IOM). Most of these people are fleeing conflict areas or countries where their rights are violated (Eritrea, Syria, Libya). But despite everything, the main objective of the European states continues to be that of impeding access to their territory.

# [8] FRONTEX IS A SIMPLE TECHNICAL COOPERATION AGENCY



# [FALSE]

This statement would appear to deny the agency's autonomy and to justify its lack of transparency and accountability in the event of the violation of rights.

However, not only does Frontex have legal personality and, on this basis, is entitled to sign cooperation agreements directly with the authorities of "third" countries and with other organisations, but it also enjoys its a power of initiative (control, expulsion) and of influence ("risk" analyses) that is far greater than that of a simple service provider. Frontex has acted with total impunity since its creation, despite many cases of human rights violations (which have been recognised by the agency). The handful of modifications introduced in 2011 and 2016 as part of its mandate to give better protection to individual's rights have proven insufficient. The complaint procedure, which is part of the new mandate, is an empty shell: the internal, administrative procedure is initiated at the discretion of the director of the agency, without ever challenging the agency itself.

**[9] FRONTEX  
DOES NOT  
RETURN  
ANYBODY TO  
A COUNTRY  
WHERE THEIR  
LIFE COULD BE  
IN DANGER**

**[FALSE]**

The Charter of Fundamental Rights of the EU, to which Frontex must adhere, prohibits the removal of anyone

to a country where the person has serious fears that his/her rights may be violated. This principle is reiterated in the agency's mandate, without any specific mention of how it can be guaranteed (access to an interpreter, legal advice, effective right of appeal), which poses a problem especially during maritime operations where migrants are unable to access any form of advice. It is even more worrying that the operational plans of Frontex, which specify the procedures, are not public. And yet the agency's operations can place people in danger: return or expulsion to countries in which the human rights violation are well documented (Nigeria, Turkey), disembarkation in a "safe" port, including outside the EU, and this without there being a mechanism to guarantee that removed people will be treated well upon their arrival.



# [10] PARLIAMENTS EXERCISE CONTROL OVER THE AGREEMENTS SIGNED BY FRONTEX

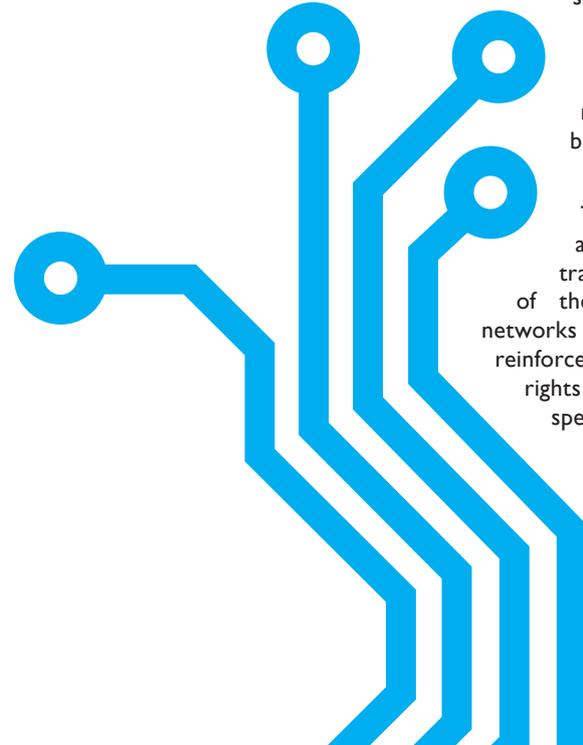
# [TRUE]

The agency is able to sign “working arrangements” with international organisations and “third” countries (18 have been signed to date including

with Turkey, Belorussia and Nigeria). These arrangements provide for the participation of the cooperating state as an observer in joint operations, such as return flights and border monitoring operations, as well as training for border guards or information exchange on migration movements. National and regional parliaments do not exercise any control over these arrangements. At the

same time, Frontex is establishing “risk analysis” networks to collect data on migration routes, to provide information to other agencies, notably to Europol, and to organise border control operations.

The portrayal of migration as a threat, just like the lack of transparency regarding the functioning of the regional information exchange networks (Eastern Europe, the Balkans, Africa), reinforces the fears of potential violation of rights and discrimination against certain specific social groups.



# [FRONTEXIT CAMPAIGN]

Frontexit is a campaign led by associations from both North and South of the Mediterranean on the initiative of the Migreurop network.

Coordinated by Migreurop & EuroMed Rights, the campaign aims to inform civil society and political institutions (both national and regional) in European and African countries about the legal opacity which surrounds Frontex's activities and the threat which the agency poses to migrants' fundamental rights through a broad campaign of awareness-raising and advocacy.

Through actions of investigation, litigation, awareness-raising and political lobbying, this campaign aims to obtain:

- transparency surrounding the mandates, responsibilities and actions of Frontex ;
- the suspension of those activities of the agency identified as violating human rights;
- the cancellation of the ruling creating the Frontex agency, if it is proven that the agency's mandate is incompatible with the respect of fundamental rights.

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FOR MORE INFORMATION ABOUT THE CAMPAIGN AND ITS ACTIVITIES

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