Security versus the Human Rights Dilemma in European Union Migration Policy: The Greek Evros AntiImmigrant Fence

ABSTRACT Within the process of the securitization of migration that has been ongoing the recent years, the EU is increasingly putting more emphasis on the issue of external border control in its migration policies. This paper focuses on the Evros anti-immigrant fence that is being constructed on the EU Greek-Turkish external border as the most recent manifestation of external border control. The fence signifies the move from preventive to a repressive approach to illegal migration, from one that deals with root causes of migration to one that aims at curbing illegal migration by taking measures at the external borders. The fence also has made apparent the inherent contradiction between the securitization of migration and the human rights principles that the EU defends. While not exhausting the entire range of possible explanations, this paper focuses on two main aspects for analyzing the situation in Greece: the securitization of migration and the increasing concern with the external border control (through FRONTEX) on the one hand, and the institutional aspects of the EU asylum policy that has proven its incompatibility with human rights on the other.

Introduction

The last decade has been marked by increased discussions on the issues of security and migration in the European Union (EU). These discussions have been fuelled by many developments such as the increasing flow of illegal migrants to EU territory since the 1990s and especially the 2000s, the establishment of a Schengen border-less area since mid-1990s, and the simultaneous internal deepening and external widening of the Third Pillar of Justice and Home Affairs (JHA). The European enlargement in 2004 with the membership of eight Central and Eastern European countries and the extension of the EU’s external borders also
has led to increasing concern with the issues of security and migration. Furthermore, the 9/11 attacks have fuelled discussions on the link between terrorism and migration.

Besides these developments, migration has gained special significance both in the discourses and the practices of European agencies that have tended to frame the issue in terms of risk and security. Within this conception, asylum seekers and illegal migrants have been regarded as risky elements that need to be contained at the external borders. This process has led to a move from a preventive approach to a repressive approach, i.e. from an approach dealing with the causes of migration to one that aims to curb illegal migrants on the external borders. One of the most widely-discussed manifestations of this approach has been the construction of an anti-immigrant fence on the Greek border with Turkey along the Evros River. The construction of the fence has made apparent the inherent contradiction between the securitization of migration and the fundamental rights principles that the EU has been defending through its Fundamental Rights Charter proclaimed by the European Parliament on 7 December 2000.

This paper analyzes the construction of the Greek anti-immigrant fence in light of the ongoing discussions on securitization of migration in the EU. The construction of an anti-immigrant fence on the Evros border between Greece and Turkey to curb the increasing flows of illegal migration towards Greece and other European countries indicates the concern with the security aspects of the issue. The Greek fence is the most recent example of fence-building cases as a result of security concerns. Other cases of fence-building against immigrants cover the Spanish case of fence-construction on the Spanish enclaves of Ceuta and Melilla in Morocco and the U.S.-Mexico fence, built in 1994 and 2006 respectively. The construction of anti-immigrant fences on the Spanish and U.S. borders have been closely associated with security concerns emanating from the increased flow of illegal immigrants along these borders (see for example Zapata-Barrero and De Witte 2007; Coleman 2005). Those fences also have made visible the borders between migrant-sending and migrant-receiving countries and have brought to the forefront security concerns emanating from the sharing of common borders. Besides security concerns, the Greek fence is also a manifestation of the problematic nature of the asylum system in the EU. This system, commonly known as the Dublin System, renders the country through which migrants enter the
EU responsible for asylum seekers and creates a direct link between poor border control and responsibility of the entering country. This paper analyzes the Evros fence’s meaning within the discussions on security versus the human rights principles. More specifically, this paper aims to analyze how the construction of such a fence is the manifestation of the prioritization of the notion of security over the notion of human rights that the EU has been defending since its establishment.

Theoretical Framework: The Securitization of Migration and the Externalization of Border Control in the EU

The theoretical link between securitization, migration, and the externalization of border control in the EU has been widely discussed in previous research on the EU’s policy on the issue of migration. These discussions are mainly the continuation of the discussions on the changing nature of the meaning of security and migration in the post-Cold War era. The end of the Cold War led to a shift in the perception of security and risk with the move from the military understanding of security (such as arms control and nuclear deterrence) to a wider understanding of security in terms of soft security threats including migration and refugee flows (Huysmans 2006, 15). Additionally, the end of the Cold War led to changes both in the meaning of migration and the policies regarding migration. The post-Cold War period has been marked by the geopolitical and conceptual widening of migration and the spatial and temporal reconstruction of migration policies of the EU (Geddes 2005, 791). These changes have led to a reconsideration of how security and migration are integrated in a new understanding which is generally referred to as the securitization of migration. This reconsideration has also been combined with the externalization of migration policies and the enhancement of external border control as a means for preventing the flow of illegal migrants in the wider territory of the EU.

Two main strands of thought in securitization studies, the Copenhagen School and the Paris School, have been widely utilized in explaining the developments over the securitization of migration in the EU. The main idea behind the two approaches to securitization can be summarized as follows: the Copenhagen School’s approach prioritizes speech acts, i.e. discourses in the analysis of securitization whereas the Paris School’s approach prioritizes the
role of practices such as the activities of various agencies that aim to control illegal migration (Leonard 2010, 236 see also Benam 2011, 194-195 and Christou et al. 2010). Both approaches are based on the idea of the social construction of security. Therefore, in the analysis of the securitization of migration in the EU, the discursive approach holds the premise that securitization is invoked through a discursive process that prioritizes and dramatizes the issue of migration as a security issue. On the other hand, the practical approach to securitization underlines the importance of practices rather than discourses for securitization. According to this approach, the securitization of migration in the EU should be analyzed in terms of the acts of the bureaucratic apparatuses and the use of different technologies for the regulation and exportation of illegal immigrants (Bigo 2002, 65).

Besides those two conceptions, the securitization of migration has been linked to wider themes that have gained importance within the EU polity. Huysmans (2002) analyzes the securitization of migration in terms of the connection of the issue of migration to the notions of internal markets, cultural security, and welfare. The securitization of internal markets has been based on the assumption that the free flow of people after the abolition of internal border control will pose a threat to public order and the rule of law (Huysmans 2002, 758). In terms of cultural security, the securitization of migration has been the result of political discourses presenting migration as a cultural challenge to social and political integration in the EU (Huysmans 2002, 762). Lastly, the connection between the welfare and the securitization of migration has evolved around the discourse that immigrants and asylum seekers are illegitimate recipients or claimants of socioeconomic rights (Huysmans 2002, 767).

The securitization of migration both as a discourse and as a practice has led to what has become known as the “externalization of migration control”, i.e. the control of migration through the EU external borders and the transfer of the responsibility of the control of irregular immigration to the transition and/or origin countries. The externalization of migration and border control became a central issue before the 2004 European enlargement process with the membership of Central and Eastern European countries. As part of the prospective enlargement of the European Union, in the early 2000s the EU passed the

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1 Here only a brief overview of the two approaches is provided because an extensive analysis is beyond the scope of this paper.
responsibility to prevent immigration to the countries of origin and to transition countries and shifted its policy from a preventive approach, which addresses the factors that lead people to leave their countries, to a repressive approach that seeks to curb and repress the undesired flow of immigrants (Benam 2011, 198). The externalization of migration control involved two components: the exportation of migration control instruments such as border control and measures to combat illegal migration to sending or transit countries, and the establishment of provisions for facilitating the return of asylum seekers and illegal migrants to third countries (Boswell 2003, 622). This process was closely associated with the new understanding of the concept of security and threat and the securitization of migration.

The externalization of the migration control with increasing awareness of controlling the external borders in order to prevent illegal migration has been closely associated with the Europeanization\(^2\) process. Benam argues that Europeanization and securitization go hand in hand and to a certain extent feed each other, as the discussions at the EU level concerning internal and external threats and the attempts for controlling migration were accompanied by increasing integration in the Justice and Home Affairs (JHA) (2011, 193). The external dimension of Justice and Home Affairs aims to step up international security by strengthening the resources and abilities of third countries to act in the field of security, including border management (Balzacq 2009, 1). Similarly, Lavenex (2006) argues that the shift towards extraterritorial control is the continuation of the transgovernmental logic of cooperation and therefore is the extension of the Europeanization process. More specifically, in terms of asylum policy in the EU, Lavenex argues that both institutionalist and social-constructivist interpretations of the Europeanization process are explanatory for the securitization and externalization of the EU immigration policy (2008, 313) especially with regard to the externalization of the JHA.

The externalization of the Justice and Home Affairs was put officially on the agenda at the Tampere Summit in 1999. In this summit, the EU was given its mandate to intensify efforts to establish a Common European Asylum System and embed migration issues within a broader context through the development of a comprehensive approach to migration.

\(^2\) Here, following Olsen (2002), the term Europeanization is used in its wide sense, referring to Europeanization as changes in external boundaries (the establishment of a single political space), Europeanization as the central penetration of systems of governance, Europeanization as the exportation forms of political organization, and Europeanization as a political unification project.
addressing political, human rights, and development issues in countries of origin and transit (Lavenex and Ucarer 2004, 427). In the Presidency Conclusions of the summit, the member states recognized that the realization of the internal JHA also had an external aspect. Therefore, the external widening of migration regime was closely tied to its internal deepening through the third pillar of the JHA (Lavenex 2006, 335). In point 59 of the Conclusions, the European Council required that “all competences and instruments at the disposal of the Union, and in particular, in external relations must be used in an integrated and consistent way to build the Area of Freedom, Security and Justice’ (European Council 1999, Point 59). In other words, the main concern was that “the EU’s external relations should be used to attain the EU’s internal security objectives” (Wolff et al. 2008, 12).

The externalization of border control was therefore closely related to the internal deepening of the securitization process. With the move from a preventive to a more repressive approach, the EU immigration policy sought to place wider emphasis on the borders and their control. The main assumption was that the control of the external borders is essential for the protection from external threats and risks in the internal border-free area. However, this approach proved problematic, especially in terms of fundamental rights and liberties with which the EU is greatly concerned. The restrictive approach resulted in increasing restrictions over migration, independent from the background of the migrants and their causes of migration. This approach also moved the interest from protection of migrants that are in humanitarian need to their regulation. The restrictive approach to border control was accompanied with the establishment of a border agency (FRONTEX) and other control mechanisms for the protection of external borders from ‘risky’ elements. This agency would mainly be responsible for the regulation of the illegal immigrants, rather than their protection with regard to their fundamental rights.

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3 The European Agency for the Management of Operational Cooperation at the External Borders of the Member States- FRONTEX (from the French Frontières Exterieures) is the main focus agency of this study. Other security-related organizations are the EUROPOL (European Police Office) that handles European criminal intelligence and the Eurodac (European Dactyloscopy- fingerprint database) that was established for identifying asylum seekers and irregular migrants.
Security, Human Rights and Fence-Building: The Establishment of FRONTEX

The border management model that the EU has been developing places increased emphasis on the external dimension that “contain, confine, and dissuade unwanted and ‘risky’ elements” (Benam 2011, 194). Those risky elements mainly refer to the irregular migrants and asylum seekers who are regarded as posing threat to the internal order of the EU and need to be managed on the external borders. The securitization of migration has been the main process leading to the externalization of migration control through external border management. Since 2004, the main agency responsible of the management of external borders has been the European Agency for the Management of Operational Cooperation at the External Borders of the European Union (FRONTEX). As its name signifies, FRONTEX was established by the Council Regulation 2007/2004 with the aim of increasing cooperation on the management of the external borders amongst EU member states.

The establishment of FRONTEX was prompted by three main factors: the increasing importance of the issue of migration since the 1990s, the concerns with the 2004 enlargement process, and the 2001 terrorist attacks that led to the identification of a wide range of measures aimed to reinforce “homeland” security (Leonard 2009, 376). All these developments prompted the establishment of a border guard agency that would curb the increasing levels of illegal migration since the 1990s, externalize border control to the post-2004 Member States, and contribute to counter-terrorism measures that gained significance especially since 9/11. Besides these background conditions, the establishment of FRONTEX is closely related to the context of EU securitization.

FRONTEX adds to the securitization of migration both through its activities and through its discourse. Leonard (2010) in her analysis indicates how various FRONTEX activities are conductive to the securitization of immigration as they aim to tackle with immigration as a security issue. These activities include the coordination of operational cooperation on external borders, the conduct of risk analyses, the assistance to member states

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4 In previous scholarly research the role of FRONTEX mainly has been studied in terms of the agency’s operations at sea (Papastavridis 2010, Baldaccini 2010, Marin 2011). In later parts, this paper will focus on the Agency’s first land operation that was inaugurated in 2010 to the Greek-Turkish border on Evros.

5 Besides irregular migrants and third-country nationals, counter-terrorism measures also have been relevant for policies regarding migration within the EU, i.e. migration from an EU state to another EU state. See, for example, Guild and Garlick (2011).
for technical and operational assistance, and the organization of joint operations. The FRONTEX Agency emerges from the EU conception of differentiated border management involving a high level of border control and a focus on targeted groups (Jorry 2007, 8). The EU discourse emphasizes a securitized vision of the area of freedom, security and justice with regard to the level of border controls. Within this vision, FRONTEX has a regulatory function with the aim to maintain security and adopts a risk-based approach to the issue of migration (Neal 2009, 349) focusing on targeted groups of illegal immigrants that threaten the EU internal security.

The FRONTEX Regulations envision the delegation of powers to a community agency in an area which had hitherto been the sovereign prerogative of member states, yet the European courts are at present unable to react to potentially unlawful practices of the agency (Baldaccini 2010, 237). This is because FRONTEX falls under a mixture of intergovernmental and supranational control (Neal 2009, 343). The structure of FRONTEX reveals this dual composition. Created as a Community agency in the Treaty of Amsterdam, with its consolidation of the Schengen acquis and the partial communitarisation of the former third pillar, FRONTEX presents nevertheless intergovernmental features: its management board is composed by two Commission officials and the heads of national border guard services (Marin 2011, 472). The establishment of FRONTEX represents a shift in the exercise of powers which are traditionally the domain of the State, without there being the same degree of legal and political accountability that member states’ authorities would be subjected to in the domestic sphere.

FRONTEX can be regarded as the outcome of a “re-balancing” of powers between the member states, the European Council and the European Commission following the communitarisation of the policy on the external borders after the Treaty of Amsterdam, constituting an important shift from the intergovernmental coordination of operational activity under the European Council to a more community approach (Rijpma 2010, 69). The agency management board, which is composed of representatives of the heads of the border agencies of the 25 EU Member States that are signatories of the Schengen acquis, and two members of the European Commission, signifies both an intergovernmental and a communitarian approach. Yet, hierarchical control which was established with the management board remained to be based on national civil servants accountable to national parliaments and it
hardly gained independence from political authorities itself nor shifted control towards EU institutions (Wolff 2012, 11). The lack of clarity and transparency regarding the exact scope of FRONTEX’s coordinating role, and the way in which FRONTEX operations are conducted make it difficult to establish which authority can ultimately be held responsible by an individual (Baldaccini 2010, 230).

FRONTEX activities remain problematic in terms of accountability and democratic control. Since its establishment, FRONTEX has been subject to constant demands for action and calls for increasing its budget and reinforcing its competences, which have not as often been accompanied by calls for strengthening its democratic, legal and judicial accountability (Carrera 2010, 22). The agency presents a problematic picture in terms of legal, political, administrative, and social accountability (Pollak and Slominski 2009). This is the result of the absence of a clear legal structure, the European Parliament’s limited executive role over the agency, and the lack of transparency over the agency’s activities. Access to information is a major question with respect to accountability and transparency since the agency does not provide immediate detailed information on ongoing operations. Similarly, democratic control over the agency’s tasks remain highly problematic because the European Parliament is not associated with the follow-up of its activities (risk analysis, research and development), except when it acts as budgetary authority.

The agency’s activities with regards to fundamental human rights became a top priority only very recently, since 2010. The first step was the signing of a regulation agreement between FRONTEX and the European Union Fundamental Rights Agency (FRA) in 2010. After the signing of this agreement, the adoption of an amended regulation in 2011 and the establishment several reports on the agency’s activities regarding human rights all signified the move toward a more rights based approach.

The cooperation arrangement between FRONTEX and the European Fundamental Rights Agency (FRA) signed in May 2010 signified the transition to a more human rights based approach. The arrangement document declares the purpose of its signing as “to establish a cooperation framework between the FRA and FRONTEX with the overall objective of strengthening the respect of fundamental rights in the field of border management and in particular in FRONTEX activities” (FRA-FRONTEX Cooperation Arrangement Article 1). The arrangement provides the framework of cooperation between the two agencies,
including *inter alia* the training on fundamental rights for border guards (Article 5) and the training on fundamental rights for FRONTEX staff (Article 8). The FRA Annual Work Programme for 2012 refers to the FRA-FRONTEX cooperation declaring that

By engaging European Union Member States in its project dealing with borders from the outset, the Agency intends to create an environment which will allow for the discussion of sensitive issues with them as well as with FRONTEX before the final research products are published. The Agency is engaging in the area of human rights training and has developed, in cooperation with FRONTEX and other partners, a concept for training of FRONTEX staff.

(FRA Annual Work Programme 2012, 9).

Another document indicating the move to a more human rights based approach is the FRONTEX Amended Regulation of 2011. The 2011 regulation declares that “the mandate of the Agency should be revised in order to strengthen in particular its operational capabilities while ensuring that all measures taken are proportionate to the objectives pursued, are effective and fully respect fundamental rights and the rights of refugees and asylum seekers, including in particular the prohibition of *refoulement*” (Amended Regulation 304, 1). The issue of the training of both border guards and FRONTEX staff remains a central issue in the amended regulation. According to the regulation “the agency shall also take the necessary initiatives to ensure that all border guards and other personnel of the Member States who participate in the European Border Guard Teams, as well as the staff of the Agency, have received, prior to their participation in operational activities organized by the Agency, training in relevant Union and international law, including fundamental rights” (Amended Regulation 304, 10). The FRONTEX Fundamental Rights Strategy endorsed the same year on 31 March 2011 declares that “FRONTEX is fully committed to develop and promote a shared understanding of fundamental rights among the entire European Union (EU) border-guard community and integrate this also into the cooperation with Third Countries”. Similarly, the 2012 FRONTEX Work Program declares that based on the 2011 Amended Regulation, in 2012 FRONTEX will achieve the “ensured training (including training on fundamental rights) of all officers participating in operations” and will ensure “the appointment of FRONTEX’s Fundamental Rights Officer” (Work program 2012, 12). The appointment of a Fundamental Rights Officer in September 2012 has been realized along with the establishment of a
Consultative Forum with the aim to inform and advise on the respect and promotion of fundamental rights in all FRONTEX activities.6

The appointment of a Fundamental Rights Officer and the establishment of a Consultative Forum also have been central issues in the 2011 Report on the Application of the EU Charter on Fundamental Rights.7 The report makes extensive reference to human rights provisions that FRONTEX should include in its activities. According to the report, the amendments made in the FRONTEX regulation in 2011 ensure that “the Member State hosting a FRONTEX-coordinated operation must provide for appropriate disciplinary or other measures in a case of fundamental rights violations during the course of a joint operation. FRONTEX operations must be suspended or terminated if such violations are of a serious nature or are likely to persist” (2011, 31). The fact that the amended regulation foresees the termination of the FRONTEX operation in case of the failure of the host member state to impede human rights violations is a major indicator of the move to a fundamental rights centered approach in the operations of the agency.

One major point regarding the increasing centrality of the issue of fundamental rights in the activities of the external border agency FRONTEX is related to the timing of this concern. While the establishment of FRONTEX dates back to the early 2000s, the concern with fundamental rights both in the operations of the agency and in the training of its officers and its border guards resurfaced only very recently, more than five years after the establishment of the agency (Carrera 2010, 19). A second point is related to the actual implementation of the human rights principles when dealing with asylum seekers and illegal immigrants. The question of whether this increasing awareness with fundamental rights has led to the amelioration of the situation that asylum seekers find themselves after reaching illegally the EU soil remains problematic especially when considering the ongoing situation in Greece. An analysis of the Greek case with regard to the Greek anti-immigrant fence that is

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7 More specifically, on page 31 the report declares that “A code of conduct will set out the fundamental rights standards to be respected during FRONTEX operations, and a Consultative Forum on Fundamental Rights will be created involving relevant international organizations and non-governmental organizations.”
currently under construction across the Evros River indicates how the issues of securitization, fundamental rights, and fence-building are intersected within the EU’s policies against illegal migration. Indeed, the Greek case is the most recent manifestation of the ongoing controversy in the EU migration policy in terms of securitization and fundamental rights principles.

**Anti-Immigration Fence-Building in Greece: The Evros Fence and Its Meaning**

The geographic location of Greece at the EU’s most vulnerable external borders has rendered the country as one of the most attractive entry points for immigrants coming from Asian and African countries. In the face of the increasing numbers of illegal border crossings in the last decades, Greek migration policies in the 1990s and 2000s largely have been characterized by a reactive approach to irregular migration and informal employment in the country’s black market economy (Triantafyllidou 2012, 14). Especially since the mid-2000s, Greece has faced a consistent flow of illegal immigrants who seek to enter the wider European space through the Mediterranean Sea or through land borders. One manifestation of the reactive approach has been the request in 2010 for the placement of FRONTEX European border guards on the Greek-Turkish border with the aim of curbing the unprecedented flow of illegal immigrants. Besides the call for border guards, since 2010 Greece has been at the top of the discussions on the EU’s immigration policy as a result of the decision to build a fence on its border with Turkey along the river of Evros. Greece already had been subjected to criticism by various human rights organizations for its ill-treatment of asylum seekers and refugees. The decision to build an anti-immigrant fence has been regarded with increasing discomfort by various agencies including the United Nations High Commissioner for Refugees (UNCHR) and the Human Rights Watch (HRW).

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8 The Greek external borders of the EU cover both the sea borders in the Mediterranean and the land border with Turkey in Western Thrace. The Evros River composes the border line between Greece and Turkey in Western Thrace and is the major entry point for illegal migrants from African and the Middle Eastern countries. Similarly, the Greek sea borders in the Mediterranean along with the Spanish sea borders are vulnerable because of their proximity to major migrant-sending North African and the Middle Eastern countries. Due to the difficulty of controlling the illegal flow of migrants on sea borders, the Mediterranean borders of Greece and Spain remain the main entry point of illegal migrants to the EU.

9 Various reports including the FRONTEX Annual Risk Analysis (2010) and the Migration Policy Institute Report on Irregular Migration in Europe (2011) have pointed that Greece is the main entry point for illegal migrants with 75 percent of the total migrant population entering the EU through the Greek land and sea borders.
Following the request of the Greek government, the FRONTEX operation to Greece was launched with the deployment (for the first time since their establishment in 2007) of Rapid Border Intervention Teams (RABITs) in October 2010.\textsuperscript{10} FRONTEX Executive Director Ikka Laitinen in his visit with the European Commissioner Cecilia Malmström to the Greek-Turkish border on 5 November 2010 declared the aims of the FRONTEX operation as: “Firstly, to bring the situation under control — ensuring at all times that irregular migrants are properly identified and treated in line with our commitment to fundamental rights and human dignity, secondly, to have an impact on migratory flows in the area and, thirdly, to assist the Greek authorities in border management”.\textsuperscript{11} While the executive director’s emphasis on fundamental rights echoed the increasing centrality of those rights in FRONTEX’s activities, later assessments of the situation in Greece have provided a very controversial account of the situation on the Evros border.

The Human Rights Watch report on the FRONTEX involvement in the ill-treatment of migrant detainees in Greece points to the ongoing controversy in terms of human rights violations as a result of non-activity by border guards. The report argues that

Although FRONTEX rejects any responsibility for what happens to migrants in detention in Greece because it has no mandate over that detention, Human Rights Watch maintains that such a mandate is not the basis on which liability is incurred. Not having the mandate to intervene in abusive detention centers does not absolve FRONTEX from responsibility and liability where it co-operates in activities that contribute to exposing detainees to the abuses that occur in them

(Human Rights Watch Report 2011, 47).

The report further declares that FRONTEX has focused solely on enforcement rather than protection. According to the report, during RABIT 2010 this EU agency operated alongside the Greek state authority that purportedly had sole responsibility for protection but that was


not fulfilling its obligations to provide protection. The report criticizes FRONTEX activities on the Greek border on the basis that “migrants and refugees confronted enforcement barriers (enhanced by FRONTEX’s engagement) without the requisite human rights and refugee rights protections that provide remedies against unbridled enforcement” (2011, 54). This situation contradicts the provisions of FRONTEX’s 2011 Amended Regulation according to which the agency is responsible for providing for appropriate disciplinary or other measures in case of fundamental rights violations by the member state hosting the FRONTEX operation (Amended Regulation 2011, 31).

The European Fundamental Rights Agency (FRA), referring to the same issue noted that “in view of the absence of a specific needs-assessment interview and of legal information it is only within detention that migrants might for the first time have a meaningful opportunity to express their protection and other needs” (McDonough 2012, 15). In a similar way, the UNHCR news release on 21 September 2010 pointed that “the refugee status determination system does not operate properly and, as a result, people needing international protection are not identified as such.” The UNHCR has framed the issue as a humanitarian crisis situation, indicating the severity of human rights violations contradicting the EU’s defense of humanitarian principles.

While not exhausting the entire range of possible explanations, this paper focuses on two main aspects for analyzing the situation in Greece: the securitization of migration and the increasing concern with the external border control (through FRONTEX) on the one hand, and the institutional aspects of the EU asylum policy that has proven its incompatibility with human rights on the other. The construction of the Greek fence is closely associated with the perception of risk and the framing of immigrants as risky, threatening and therefore, unwanted elements. The process of framing is observed both in the discourse of the Greek government

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12 According to UN news release on 3 December 2012 (available at http://www.unhcr.org/refworld/country,...,GRC,,50c1bab02,0.html), the Special Rapporteur drew attention to a new policy implemented by the Greek government which systematically detains everyone that is detected as irregularly entering the Greek territory, including children and families. Separated or unaccompanied children are let go without an official status in the country.

and the general news releases drawing attention to the issue.\footnote{14} According to this perception, immigrants are supposed to stay behind the borders no matter whether they are asylum seekers escaping from war and violence in their home countries. The construction of the fence is also the result of the asylum system of the EU commonly known as the Dublin System which renders the entering country as responsible for providing asylum. The Dublin System is responsible for creating a direct link between border control and responsibility for tackling with the issue of illegal border crossing.

The construction of an anti-immigrant fence on the external border can be seen as the manifestation of the increasing awareness of external border control in the EU. The fence echoes the move from preventive to a repressive approach to illegal migration, from one that deals with the root causes of migration to one that aims curbing illegal migration by taking measures at the external borders. As analyzed above, the repressive approach aims to curb the flow of irregular migrants with activities on the external borders; part of this understanding is the externalization of border control through cooperation with origin or transit countries. In the case of the Evros fence, this cooperation involved the Turkish state and the signing of a Memorandum of Understanding with FRONTEX on 28 May 2012.\footnote{15} With this memorandum FRONTEX and Turkey have concurred on "the possibility of deployment of Turkish officers to selected border crossing points at the external EU borders" (FRONTEX news release May 2012).

\footnote{14} While an extensive discourse analysis is beyond the scope of this paper, an overview of several news pieces from major Greek newspapers underline the interconnectedness of the issue of illegal migration, internal security and increasing border control: “Detention Centers under the Control of Security Forces” [Σε συνεργασία των Εργατικών Κρατημένων Μεταναστών] (To Vima 31/08/2012 available at http://www.to-vima.gr/society/article/?aid=472765&wordsinarticle=%ce%95%cf%85%cf%81%cf%89%cf%80%ce%b7%3b%ce%bc%ce%b5%cf%84%ce%b1%ce%bd%ce%b1%cf%83%cf%84%ce%b5%cf%82%3b%ce%b1%cf%83%cf%86%ce%b1%ce%bb%ce%b5%ce%bd%ce%b9%ce%b1 last accessed 04 Jan. 2013); “Papoutsis Asks for Additional Measures on the Borders” [Επιπλέον Μέτρα για τη Φύλαξη των Συνόρων Ζήτησε ο Χρήστος Παπουτσής] (To Vima 22/11/2011 available at http://www.to-vima.gr/society/article/?aid=421172&wordsinarticle=%ce%95%cf%85%cf%81%cf%89%cf%80%ce%b7%3b%ce%bc%ce%b5%cf%84%ce%b1%ce%bd%ce%b1%cf%83%cf%84%ce%b5%cf%82%3b%ce%b1%cf%83%cf%86%ce%b1%ce%bb%ce%b5%ce%bd%ce%b9%ce%b1 last accessed 04 Jan 2013); “Block to Illegal Migration: Greek Police, Armed Forces, and Sea Frontier Control to Merge their Forces” [Μετρά για την Ασφάλεια των Πολιτών απο τον Αντ. Σάμαρα] (Kathimerini 12/06/12 available at http://www.kathimerini.com.cy/index.php?aid=4752830&wordsinarticle=%ce%95%cf%81%cf%89%cf%80%ce%b7%3b%ce%bc%ce%b5%cf%84%ce%b1%cf%83%cf%84%ce%b5%cf%82%3b%ce%bc%ce%b5%ce%bd%ce%b1%cf%83%cf%86%ce%b1%ce%bb%ce%b5%ce%bd%ce%b9%ce%b1 last accessed 04 Jan. 2013); “Measures for the Protection of Citizens by Samaras” [Μετρά για την Ασφάλεια των Πολιτών απο τον Αν. Σάμαρα] (Kathimerini 12/06/12 available at http://www.kathimerini.com.cy/index.php?pageaction=kat&modid=1&artid=93554&show=Y last accessed 04 Jan. 2013).

This has meant the cooperation of Greece and Turkey on the repression of illegal immigration through their common borders.

The construction of the fence is also the manifestation of the problematic structure that the EU immigration policies have established. The Dublin Convention, which entered into force in 1997 with the aim of controlling unauthorized entrants of third country nationals, has gained special significance within the debates on migration policy and human rights. The Convention, which was amended in 2003 (commonly referred to as the Dublin II), establishes a system determining the state responsible for examining the applications for asylum in the EU. In the case of secondary movements to another member state, the system allows for the transfer of individuals back to the country of first entry. In establishing this mechanism, the member states have placed the responsibility for (and the cost of) securing the EU’s external border disproportionately onto the EU’s external border countries (Thieleman and Armstrong 2012, 2). The geographic location of Greece on the frontline of the EU’s external border increases its degree of ‘responsibility’ (and therefore cost-sharing) in the scope of the EU’s asylum policy and the so-called ‘Dublin System’. This is because based on this system, the first state through which an asylum-seeker has first entered the common EU territory is responsible for examining the refugee’s claim (Carrera and Guild 2010, 2).

The Dublin System creates a direct link between the responsibility to examine an asylum application and the first entry of an immigrant into the territory of the EU. This means that the Dublin System has linked poor border control to the responsibility of the member states that are the first entry points of the immigrants. Lenart argues that such a policy per se is manifestly noncompliant with the European Convention on Human Rights and the Geneva Convention, which obliges contracting parties to grant protection to all those who need it according to the criteria set out in Article 1 of the Refugee Convention and who apply for it at the border or on the territory of a particular state, since this policy de facto prevents access to protection (2012, 14). In essence, Dublin II Regulation provides for many incentives encouraging member states to adopt rules for controlling immigration flow through surveillance systems which are often dubious when it comes to their compliance with refugee

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law or the international protection of human rights such as restricting access to the territory of member states as much as possible (Lenart 2012, 14).

Both the increasing securitization in terms of external border control and the unequal burden-sharing within the Dublin System have contributed to the prioritization of security over human rights. The Greek Evros fence is the latest manifestation of this security-oriented approach where the struggle with illegal immigration has taken the form of the building of a divisive fence in order to achieve non-entry of illegal migrants to the wider EU territory. However, this kind of an approach has been contradictory to the fundamental rights principles that the EU has been defending through the European Charter of Fundamental Rights. This approach and the situation in Greece also have revealed the problematic presumptions of the Dublin System: that all EU member states equally respect fundamental rights, asylum procedures and reception conditions of asylum seekers (i.e. the principle of mutual trust) (Carrera et al. 2012, 3). In essence, the Evros fence has functioned as critical example of how security is prioritized over fundamental rights when migration is framed as a risky issue which should be controlled at the external space, before the external elements reach the EU’s internal territory.

Conclusion

The ongoing process of securitizing migration in the European Union has paved the way for transition from a preventive approach to a repressive one that aims to curb illegal migration on the borders. The increasing emphasis on external border control is the manifestation of this approach. Through the control of external borders, the EU aims to deal with risky elements before they reach the internal EU territory. This approach is maintained despite its inherent contradiction with human rights principles that the EU defends.

The construction of an anti-immigrant fence on the Greek-Turkish border along the Evros River is closely related to the process of securitization of migration. At the same time, the construction of the Evros fence indicates the problematic nature of the EU asylum system commonly known as the Dublin System. The anti-immigrant fence remains at the intersection of the discussions on the security versus human rights dilemma, as it is one of the most recent examples of the prioritization of security over human rights. The fence both perpetuates the
securitization of migration, being itself a manifestation of this understanding, and contradicts
the human rights principles since it is based on a repressive approach to the flow of third
country nationals independently of the causes behind their struggle for crossing the EU
external borders.

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Assistance to Greece’s Border with Turkey: Revealing the Deficiencies of Europe’s Dublin


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