

WHO WATCHES THE WATCHMAN?

Border Violence
and Impunity at Frontex

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EXECUTIVE SUMMARY

The European Border and Coast Guard Agency (Frontex), created to prosecute cross-border crime in 2004, has a long history of controversy. In a context where total global forced displacements are increasing by the millions every year, it is worth asking whether this EU-created agency is best placed to ensure the protection of forcibly displaced people. Irrespective of the question of whether or not some have the right to seek asylum, such as those fleeing poverty, climate degradation or suffering from other causes of migration not recognised in the 1951 Refugee Convention.

This report continues the work begun in 2019 with the publication of our *Guarding the Fortress* report. It analyses the evolution of an agency whose resources, functions and staff constantly increase.

- From 2019 to 2022, the Frontex budget increased by over €2 billion, or 55.15%. Half of the entire Frontex budget approved in the years until 2022 was spent over the last four years analysed (2019 – 2022), while the remaining 45% was spent in the previous 13 years, from 2005 to 2018.
- In 2019, Frontex's functions and budget were expanded to standardise and strengthen the EU returns system. The budget for these operations increased from €80,000 in 2005 to over €69 million in 2020. An accelerated and comprehensive returns system is being legalised and institutionalised, under what some experts have called "the Orbanisation of EU asylum law".
- The low budget of Frontex's Fundamental Rights Office (FRO), which began operating in 2019, stands in stark comparison. In 2018 the FRO budget for its implementation represented only 0.17% of the total budget for Frontex operational activities. It increased ever so slightly by 0.21% in 2019 and 0.31% in 2020, when it was assigned a €1 million budget.
- The Fundamental Rights Office recognises serious limitations on its own ability to carry out its mission. It has difficulties accessing all Frontex departments and activities; it claims to have insufficient access to operational documents; and states that it is impossible to meet migrants and Frontex staff in certain operational areas without the presence of national authorities.
- In terms of Spain's operational activity, the Spanish government is maintaining the same operations included in the last report: Indalo, Hera and Minerva. It is worth noting that Indalo has grown from deploying 69 Frontex officers to 257 in 2021, with a 118.5% budget increase from 2017 to 2018. As of 1 June 2019, Spanish Armed Forces naval and air assets joined these missions for the first time, consolidating the militarisation of migration.
- People fleeing Ukraine were given an exemplary and exceptional welcome. The urgent measures taken by the European Commission included: reactiva-

tion of the *Temporary Protection Directive*, which included a more equitable distribution of Ukrainian refugees among European countries and a 'solidarity platform' coordinated by the European Commission. The operation proves how the EU can guarantee a welcome, dignity and human rights.

- Frontex missions carry out collective expulsions, which are prohibited by Article 4 of Protocol 4 to the European Convention on Human Rights. Collective expulsion is only possible following individual examination of each asylum application.
- Rights violations at Spain's southern border are constant, with flashpoints including the 2014 Tarajal tragedy and the overcrowding of some 2,600 people at the Arguineguín dock in 2020; massive pushbacks took place from 17-19 May 2021 in Ceuta, and most recently, on 24 June 2022, 37 people died at the Melilla border.
- In 2020, the cases of migrants being prevented from travelling to mainland Spain multiplied, contravening up to six Spanish Supreme Court rulings stating that the police do not have the authority to prevent such travel when passengers have the proper documentation.



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