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**HOW HAS THE 2015 MIGRATION CRISIS CONTRIBUTED TO THE CREATION
OF THE EUROPEAN BORDER AND COAST GUARD AGENCY?
(A POLICY ANALYSIS USING KINGDON'S MULTIPLE STREAMS FRAMEWORK
WITHIN THE EUROPEAN UNION)**

In the 2015, the European Union faced a major migration crisis which threatened the integrity of the Schengen system, one of the foundations of the modern European Union. In reaction, the European Commission proposed the establishment of a European Border and Coast Guard Agency as well as an increased mandate for FRONTEX. It is important to establish why exactly the Commission chose for this particular solution, since there was a large political consensus that action should be taken. This analysis shows that the ECBG establishment is a result of time pressure and other factors which significantly affected the policy process.

Key words: *European Union, migration crisis, integrity, a European Border and Coast Guard Agency, FRONTEX.*

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**ЩО КРИЗА МІГРАЦІЇ 2015 РОКУ ПРИВНЕСЛА У СТВОРЕННЯ ЄВРОПЕЙСЬКОЇ
АГЕНЦІЇ З ПРИКОРДОННОЇ ТА ПРИБЕРЕЖНОЇ ОХОРОНИ?
(ПОЛІТИЧНИЙ АНАЛІЗ З ВИКОРИСТАННЯМ МНОЖИННИХ ПОТОКІВ КІНГДОНА
В РАМКАХ ЄВРОПЕЙСЬКОГО СОЮЗУ)**

У 2015 році Європейський Союз зіткнувся з серйозною міграційною кризою, яка загрожувала цілісності Шенгенської системи - однієї з основ сучасного Європейського Союзу. У відповідь Європейська Комісія запропонувала створити Європейське агентство з прикордонної та прибережної охорони, а також збільшити мандат для FRONTEX. У статті вивчається, яке саме рішення Комісія обрала для цього, оскільки існував великий політичний консенсус щодо того, які слід вживати заходи. Аналіз показує, що створення Агенції є результатом тиску та інших чинників, які суттєво вплинули на політичний процес.

Ключові слова: *Європейський Союз, міграційна криза, цілісність, Європейська Агенція з прикордонної та прибережної охорони, ФРОНТЕКС.*

Постановка
проблеми

During the 2015 migration crisis, the EU faced an inflow of migrants not seen before. This was damaging for the Schengen system, as member states reinstated border controls again to stem the flow of irregular migrants crossing through their territory. To solve this issue, the European Commission proposed to empower the European Agency for the Management of Operational Cooperation at the External Borders, commonly referred to as Frontex. The Commission proposed to more than double Frontex' budget and increase its mandate in order for it to become a full-fledged European Border and Coast Guard Agency (European Commission, 2015a). Secure external borders are key to the Schengen area and the four freedoms of the European Single Market and thus a strong and capable external border management is indispensable. It is consequently essential to analyse the European policy process in reaction to the 2015 migration crisis.

Мета

The goal of the paper is to find out why the Commission specifically proposed the empowerment of Frontex as its solution to the migrant crisis.

Аналіз
останніх
досліджень
і публікацій

The analysis will be done using Kingdon's Multiple Streams research framework, which provides a framework for researching the agenda setting

process and policy development. I will argue that the European Commission acted as a policy actor using the migration crisis and the political situation within the Union to promote deeper integration in the form of its enhancement proposal. After elaborating on the concept of the Multiple Streams Approach and describing other research in the field, I will describe the process leading up to the restructuring of Frontex and apply the Multiple Streams Approach to this process in pursuance of finding a logical explanation of why this solution was agreed on to solve the migrant crisis.

Виділення
невирішених
раніше
частин
загальної
проблеми

In the past, Nikolaos Zahariadis has already successfully applied the MSF to European policy processes, despite the MSF originally being designed to analyse policies within the political system of the United States. The framework has amongst other things been used to research the development of EU economic and energy policy (Herweg, 2016; Saurugger & Terpan, 2016). Niemann and Speyer (2018) have previously analysed the results of the migration crisis using neofunctionalism, a theory on European integration. Neofunctionalism however is an explanation for further European integration but is a theory too general to use for in-depth policy analysis. It can thus not explain why the EBCG creation was chosen as a policy option,

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as it explains European integration, not specific policy development. Others have attempted to predict the effects of European border security in lieu of the creation of the EBCG (De Bruycker, 2016). There has also been research on why agency's like Frontex get to expand and research questioning the fact that the creation of the EBCG will change anything (Guiraudon, 2018; Scipioni, 2018). There remains however a research gap explaining why specifically the creation of the EBCG was chosen by the European Commission as an appropriate solution to the 2015 migrant crisis.

Вклад
основного
материалу

In my analysis of the policy process following the 2015 migrant crisis, I will use Kingdon's Multiple Streams Framework to find out why specifically the establishment of the EBCG was found to be an appropriate solution

to the 2015 crisis. The framework assumes that policy communities like the civil servants of the EU already have a plurality of solutions or ideas that can be used as a solution (Kingdon, 2013, p. 122). The solutions are however just waiting for an appropriate problem to appear. Kingdon assumes that there are 3 streams critical to public policy in a political system: policy, politics and problems (Kingdon, 2013, p. 19). According to Kingdon, when the political situation is right, a policy entrepreneur can couple the three streams and successfully advocate for his proposal during such a policy window (Kingdon, 2013, p. 165). In our case the policy entrepreneur is the European Commission, this will be discussed further down the line. A crucial assumption of Kingdon's is that there is not an infinite amount of resources, e.g. time or money. This causes the policy entrepreneur to push a solution which is optimal considering the limited resources proposal (Zahariadis, 2014, p. 29). A solution will thus not always be perfect and sometimes there won't be time to consider all options. Instead, the solution is an optimal one preferred by a policy entrepreneur to promote his own interests and a result of limited resources and the need for compromise (Kingdon, 2013, pp. 151, 199).

In 2015, after a large number of migrants illegally entered the Schengen area and Germany suspended the application of the Dublin Regulation, several states started re-imposing border controls on borders with other Schengen member states (Deutsche Welle, 2015; Zalan, 2015). Such systematic checks had not taken place at internal borders since the implementation of the Schengen agreement. Some states' border guard were under heavy pressure to maintain control over external borders. Consequently Frontex, following its mandate, came to assist these member states in their efforts to maintain control over the external borders. Frontex was heavily criticised for a lack of capacity to sufficiently support member states when necessary (Mathiason, Parsons, & Jeory, 2015).

Following Kingdon's MSF, we can already establish the problem: the migrant crisis. The migrant crisis functioned as a focussing event, propelling border security and the integrity of the Schengen area to the top of the European political agenda, proven by the EU summits focussed on migration held in the second half of 2015. Since the European Commission has, by power of the Lisbon Treaty, the sole power to propose legislation within the Union, it is the only body which can pursue its interests

directly through legislation (European Union, 2008). The European Parliament nor the Council of the EU pushed the establishment of the EBCG, the Commission is the policy entrepreneur in this case. The Commission, as 'Guardian of the Treaties', has a mandate to promote the general interest of the EU and propose legislation appropriate to this end (European Union, 2008). The Commission is committed to the mantra of 'an ever closer union', and is thus able to frame its solutions as pursuing the general interest of the EU, consequently initiating further integration (Nugent & Rhinard, 2015, p. 16; Treaty Establishing the European Community (Consolidated Version), 1957). The enhancement of the mandate of an agency as a next step in integration is thus a course of action conform the mandate carried out by the Commission. Promoting European integration is thus a core interest of the European Commission.

On an EU summit in June 2015, several European heads of government stated that illegal immigration should be curbed while also calling upon other member states for solidarity, with Angela Merkel calling the refugee crisis the biggest issue she has faced to date and Donald Tusk announcing that curbing illegal migration should be a top priority of the EU and its member states (van der Hee & Leijendekker, 2015). It is evident that at this point the issue was on top of the political agenda, as it showed that individual couldn't cope with the inflow of migrants and the assistance of Frontex was insufficient. With some member states threatening to let go of border controls and let migrants flow into Europe without controls, we can see in the politics stream that there was a consensus that regaining control of the external borders was the first thing that had to be solved. Though the humanitarian aspect of the crisis was also being discussed among member states, this issue was put on the agenda generally through reports of NGOs and the media, whereas the border security focus was put on the agenda by the European Council and Commission. Generally, top-down subjects proposed by f.e. the Commission, are more likely to end up higher on the political agenda than issues that might be pushed from f.e. NGOs (Princen, 2011, p. 113).

Now it's key to find out how the policy stream developed in the entangled interests of member states and Union institutions and why specifically the EBCG rolled out as a policy change in reaction to the migration crisis. The Commission made its first move during the 2015 State of the Union, where Commission President Juncker proposed the strengthening of Frontex (European Commission, 2015c). A little later, on the 23rd of September, the European Council called for additional resources for Union agencies like Frontex, while calling upon the EU institutions to take action as swiftly as possible (European Council, 2015b). The fact that the migrant crisis needed a European solution was evident, but the fact that the solution was to be taken within the Union framework opened up a policy window for the Commission to act on to push for further integration and take the next step towards integrated border management.

On the 15th of October 2015, the European Council gathered at another informal summit, calling upon the Commission to propose a number of possible solutions to the crisis, some of which look very similar to the EBCG regulation proposal made by the Commission in December later that year. The summit conclusions, which mostly

concerned migration, called for an enhancement of the Frontex mandate as a move towards a European Border and Coast Guard and allowing authorise Frontex to deploy RABITs whenever the risk analysis shows a need for “robust and prompt action”(European Council, 2015a). These ideas later went on to become the core of the EBCG regulation, which was proposed by the Commission two months later. The proposal included an extended mandate and an upgrade in resources for the agency, as was asked for by the European Council and thought of by the Commission during the crisis. This proposal however included the right to intervene by the EBCG, allowing the Commission to adopt implementing decisions which would allow the EBCG to step in and send RABITs to countries where the external border is under great pressure and its security show deficiencies (European Commission, 2015b). This would transfer the decision about sending RABITs in case of emergency to the Commission instead of only allowing deployment when so asked for by a member state. Considering that border security used to be in the third pillar and that the transfer of power from former third pillar policy areas to EU institutions tend to be viewed with suspicion, it did not take long for member states to start voicing their concerns regarding the right to intervention (de la Baume, 2015). The concerns raised by the member states made the proposal in its original form politically unfeasible and its future would be uncertain. This created a need for the proposal to be ‘softened up’ in order to make it politically feasible, as is expected of policy solutions (Cairney & Zahariadis, 2016, pp. 87–88). On the 6th of July 2016, a political agreement was reached after trilogues. It amended the original proposal of the Commission (European Parliament, 2018). Under this agreement, the Commission may propose an EBCG intervention in a member state, but this proposal must be voted on by the Council, thus leaving the final decision about interventions with the Council instead of the Commission. The Parliament and Council accepted the proposal after trilogues and the final form of the regulation was published in the Official Journal of the European Union on the 16th of September (ibid.). The EBCG was then officially launched on the 6th of October 2016 (European Commission, 2016).

Висновки

In the wake of the migration crisis in 2015, several member states faced grave pressure on their Schengen external borders. Despite Frontex’ support to member states by providing risk analyses, expertise and RABITs, the integrity of the external Schengen borders was at stake, causing member states and the Union to consider new policies to solve this situation and empower the Union and its members so that they are well-prepared for a similar situation in the future. The crisis and its results pushed the issue right to the top of the European agenda, with heads of government and state gathering at extraordinary summits trying to think of a solution which can reinforce the external Schengen borders under pressure and curb the flow of migrations trying to reach Europe. With the European Council calling on the Commission to find a solution within the framework of the Union, the Commission was put in a favourable position to forward its idea for creating a European Border and Coast Guard Agency, which was later pitched at the 2015 State of the Union by Commission President Juncker (European Commission,

2015c). Frontex had not proven itself useless during the migration crisis but lacked resources in order to provide the assistance needed by the member states, which made an empowerment of Frontex a feasible policy solution. As the Guardian of the Treaties, it is the Commission’s task and main interest to further integration wherever necessary, and such an enhancement of Frontex’ capabilities would mean a further step towards integrated border management. The Commission, having in mind a solution fitting its interests or the ‘European interest’ as is theirs, capitalised on the policy window opened up by the European Council in the wake of the migration crisis. With the European Council willing to accept a further transfer of resources to Frontex to realise a broader mandate, the situation was optimal for the Commission to push forward its proposal for the establishment of a European Border and Coast Guard agency, as an enhancement of Frontex. Though the Commission managed to push the establishment of the EBCG through the legislative procedure, the original proposal did have to be changed in regard to the right of intervention. Allowing the Commission to have a decisive monopoly on these intervention missions would have been a transfer of sovereignty too large to be acceptable for many member states. In the end, the entire agency was up and running within a year, showing that an increase of Union agency resources and mandate do not necessarily have to be cause for a long process full of debates. Given the circumstances, the Union and its member states are willing and able to act.

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