

The Borders of Accountability

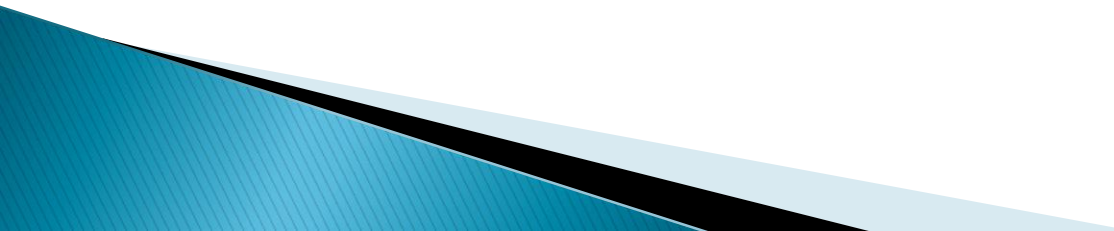
The case of FRONTEX

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Contents

Aim: describing Frontex accountability

- ▶ **Overview** of Frontex
 - ▶ **Context:** Agencification and Experimentalist governance in the EU policy Area of Freedom, Security and Justice (AFSJ)
 - ▶ **Problem:** Alleged Democratic Deficit
 - ▶ **Solution:** Accountability models
 - ▶ **Research:** Application of two accountability models to Frontex
 - ▶ **Conclusion**
- 

FRONTEX: a case study

European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union

Why?

- Understudied, notwithstanding rapid expansion in terms of competences, equipment and financial and human resources;
- Growing concern for “Fortress Europe”; securitisation, externalisation and deaths.

FRONTEX: Legal Basis

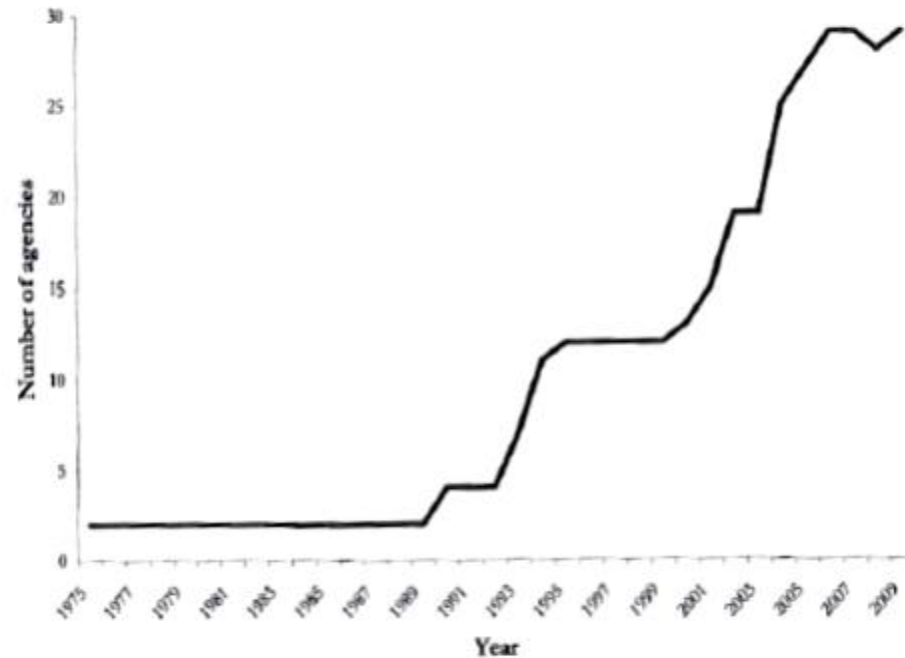
Council Regulation
2007/2004

Regulation (EC)
863/2007

Regulation (EU)
1168/2011

- ▶ Risk analysis and research
- ▶ Assistance and coordination of joint operations at the external borders
- ▶ Cooperation with other agencies (i.e. Europol)
- ▶ Working Arrangements with neighbouring third countries
- ▶ Training of officials and capacity building

Agencification and EU governance



Source: Busuioc, M. (2010), p. 12.

- ▶ Independence
- ▶ High level of expertise and efficiency
- ▶ Blame avoidance (Member States) and supranational control of EU policies' implementation

Experimentalist Governance in the AFSJ

(C. Sabel and J. Zeitlin, 2010)

Four fundamental features of experimentalist governance:

- ▶ Non-detailed framework objectives
- ▶ Lower-level units – strong role in the pursuit of objectives
- ▶ Monitoring, reporting, peer review of results
- ▶ Recursive revision of framework objectives and evaluation standards in the light of results

Democratic Deficit

The AFSJ has a governance system with strong experimentalist features and it is shaped by the agencification phenomenon, thus democratic standards of national parliamentary democracies are not applicable.

Problems for the application of the ideal-typical national model of democracy:

- Multi-level governance system with experimentalist features
- Relevance of decentralised lower-level units in pursuing objectives
- Role of international non-institutional actors

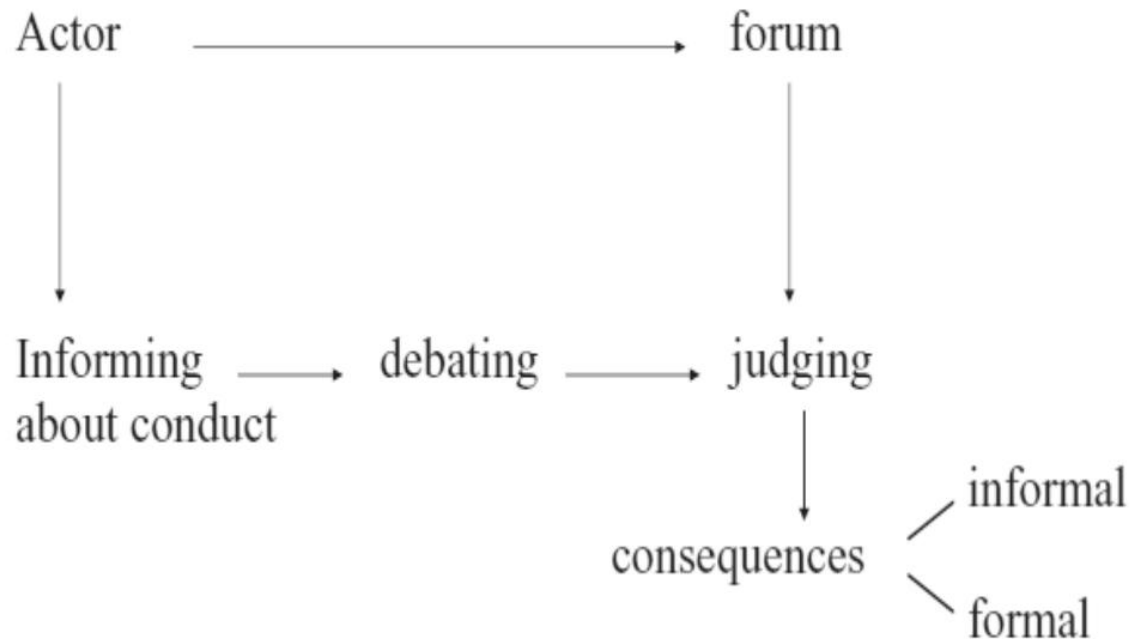
Problems for the democratic legitimacy of agencies:

- Expertise
- Independence
- Ad hoc creation: blurred division of competences between Member States and agencies
- Impossibility to have a direct control on delegated powers

Solution:

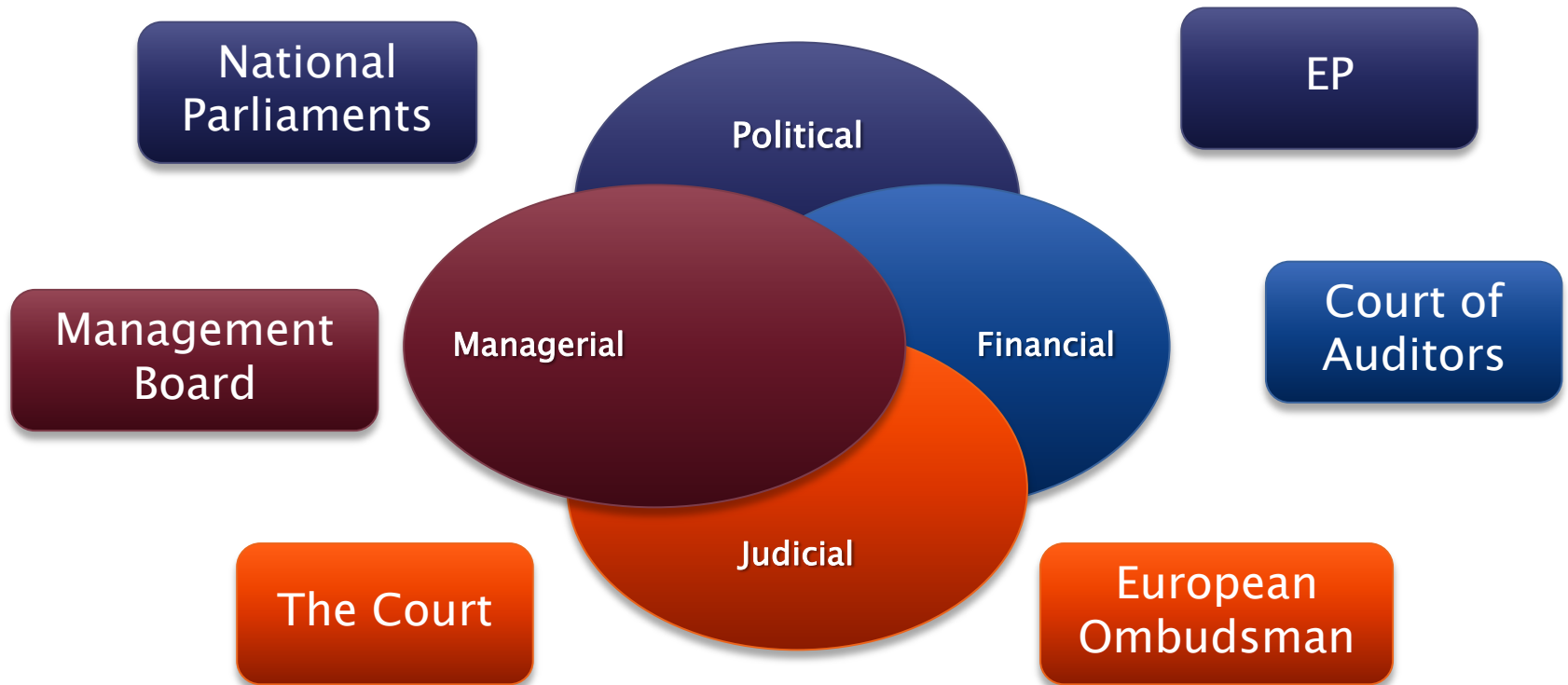
- ▶ Effective accountability mechanisms

Accountability: Bovens



Source: M. Bovens (2007), *Analysing and Assessing Accountability: A Conceptual Framework*, p. 454.

Frontex and Bovens' Accountability



Problems: European and national Parliaments' lack of

- ▶ EXPERTISE
- ▶ INTEREST

Accountability: Sabel & Zeitlin

- ▶ Monitoring, reporting, PEER REVIEW of results
- ▶ Recursive revision of framework objectives and evaluation standards in light of results.



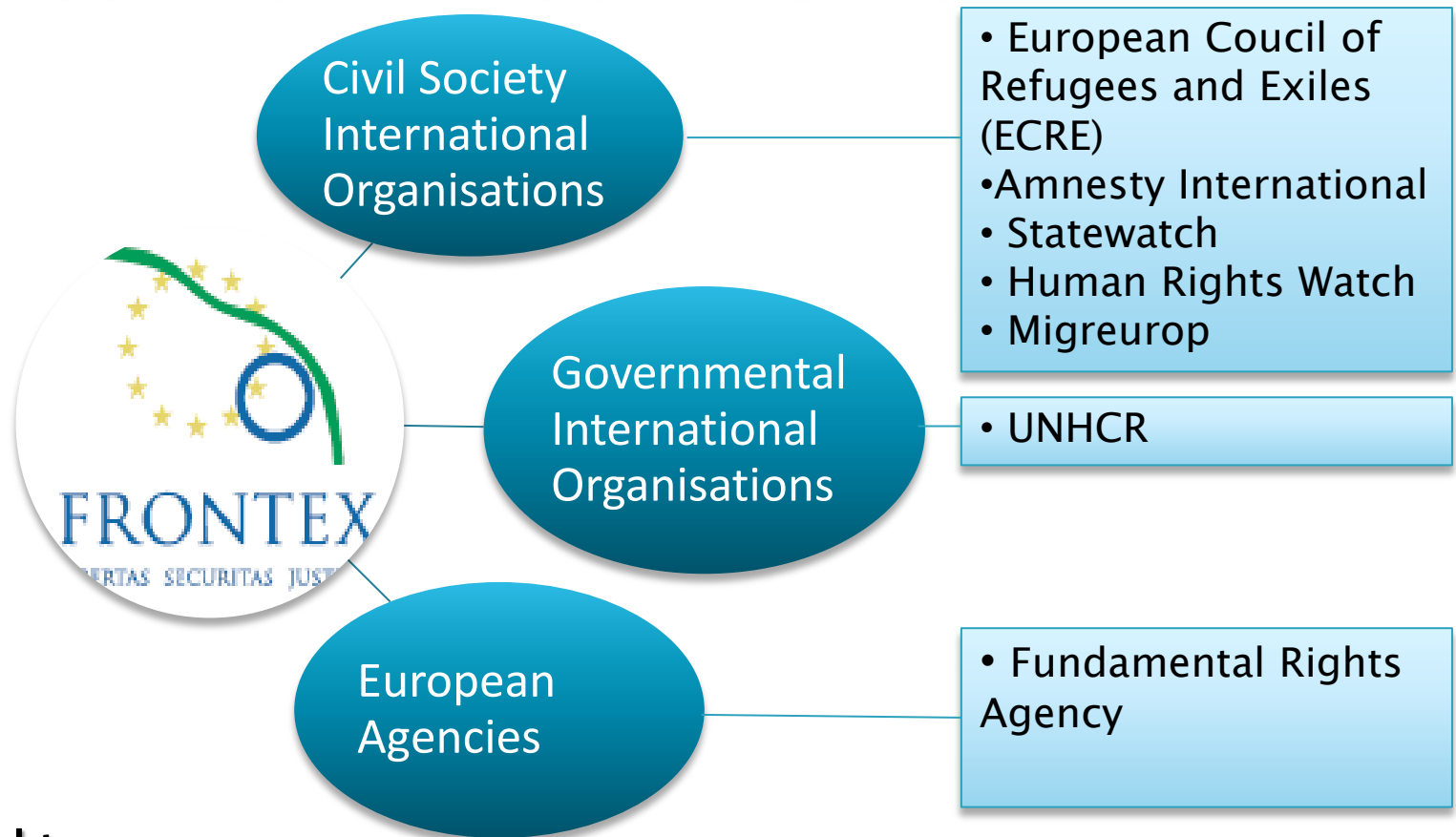
DYNAMIC ACCOUNTABILITY

Peer review: fundamental to overcome problems of expertise and interest of the forum vis-à-vis the actor.

Analysis of reports, opinions and interviews of Frontex peers.

Focus: Frontex respect for fundamental rights.

Frontex and Peer Review



Need to:

- ▶ mainstream fundamental rights in Frontex activities
- ▶ Define the division of competences between Member States and Frontex officers

Conclusion

Problem of Bovens model of accountability:

- ▶ Chain of control: ineffective due to lack in interest and expertise of the forums

Solution:

- ▶ Application of a model that is more suitable for the EU governance system



- ▶ Extensive use of monitoring, reporting and reviewing carried out by peers
- ▶ Give prominence to the follow-ups of peer review by revising EU policy objectives and the tools to implement and evaluate them

Dynamic accountability and Frontex approach to human rights:

- ▶ Enhanced knowledge of problems
- ▶ Spreading of the debate over de-politicised issues
- ▶ Compensating for non-independence of Frontex Fundamental Rights Officer and Consultative Forum
- ▶ Too much flexibility to punish alleged human rights violations

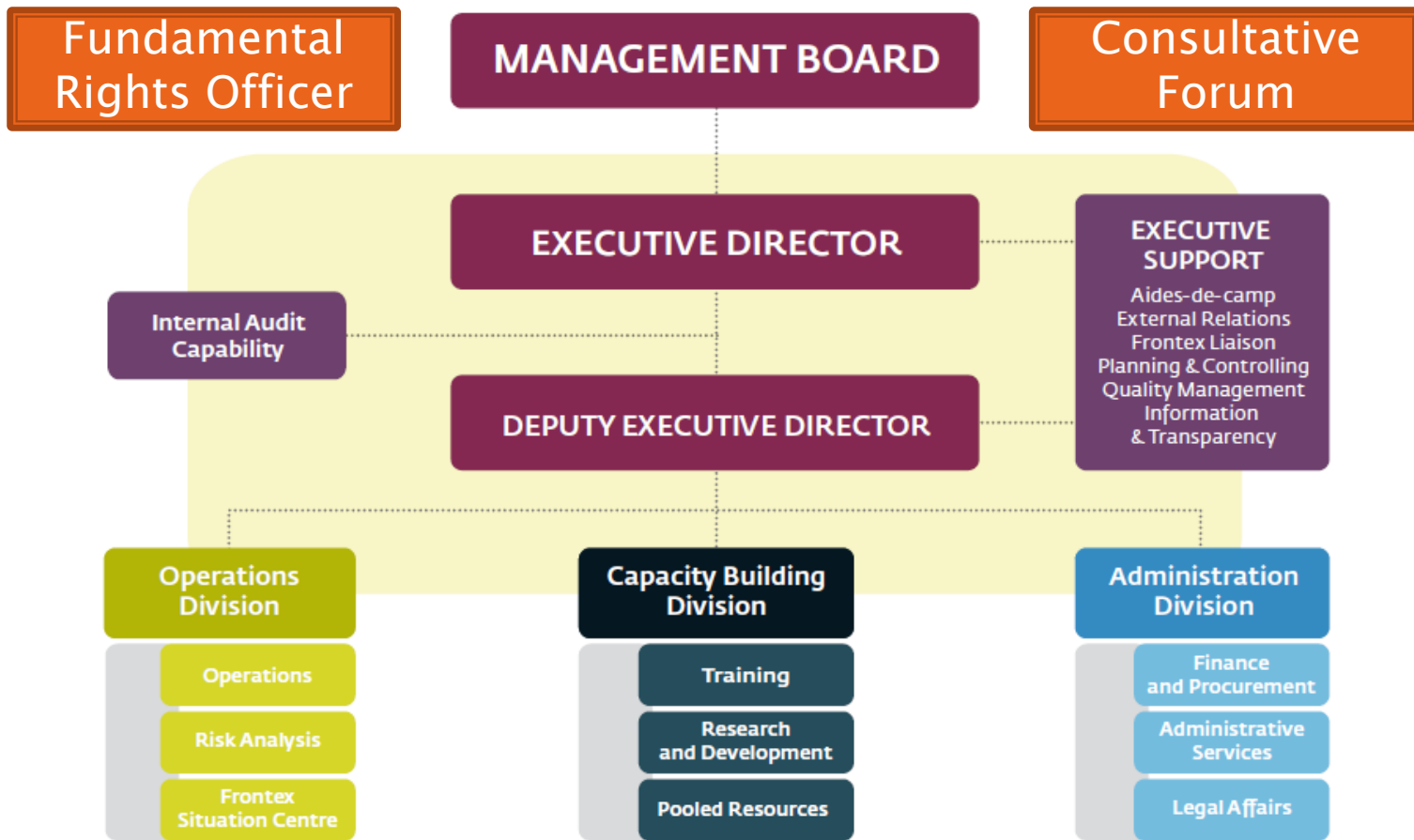
An abstract artwork featuring a large, dark, textured shape in the center, possibly representing a globe or a complex structure. The background is a mix of warm colors like orange, yellow, and brown. There are various scribbles and lines in white, yellow, and blue. A prominent five-pointed star is drawn in the lower-left quadrant. The text is overlaid on the central and right portions of the image.

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FRONTEX: Structure



Source: *Frontex Press Pack* (May 2011, p.4).

Schengen Area

