

A never-ending journey at the external borders of the European Union

Studying the use and the legitimization of surveillance technology to manage EU's external borders and flows of (irregular) immigrants to Europe



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A story of tragedy, but most of all a story that needs to be heard

Abstract

This thesis addresses the management of EU's external borders and flows of (irregular) immigrants from Morocco to Spain. Over recent years, there has been growing concern in the European Union about (irregular) immigration from and across the Mediterranean, which has come to be seen both as a security threat as well as a humanitarian challenge. As a consequence, the EU intensified border management activities in and across the Mediterranean: as far away from the territorial border as possible. EU institutions and border agencies, professionals and private security companies play an increasingly critical role in current practices of EU border management. Information and surveillance technology are the centerpieces of this 'new border architecture'. This thesis provides an insight in the new architecture of EU border management and the complex European borderscape. A new externalization-privatization-militarization nexus will be presented to better understand the way modern technologies of surveillance are put into practice. Based on the analytical model of biopolitics, this thesis aims to develop a further understanding of the use of new technologies of surveillance to manage EU's external borders and flows of (irregular) immigrants and the legitimization of these modern technologies within EU's immigration policy framework. Drawing on this insight, it is the intension of this thesis to shed light on the social implications (in terms of human rights issues) and the disturbing socio-political consequences for (irregular) immigrants of the rapidly-changing character of EU border management in the complex European borderland. This thesis argues that the issue of (irregular) immigrants gradually shifts to the background of the European political debate, disappearing into the 'politics of forgetting'. This thesis points out the danger that (irregular) immigration becomes a persistent phenomenon of our time, instead of a problem that should be solved or a challenge that should be managed.

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With this final version of my thesis and its submission, my time as a master student of Conflict Studies and Human Rights in Utrecht has come to an end. However, this master programme is only the beginning of a life in which I would like to unconditionally devote myself to protect and improve human rights.

Marit Pater
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List of abbreviations

| | |
|----------------|---|
| CCTV | Closed-Circuit Television |
| CoESS | Confederation of European Security Services |
| EADS | European Aeronautic Defence and Space |
| EC | European Commission |
| EOS | European Organisation for Security |
| EP | European Parliament |
| EU | European Union |
| EURODAC | European Dactyloscopy |
| EUROPOL | European Police Office |
| EUROSUR | European External Border Surveillance System |
| PPP | Public-Private Partnership |
| PMC | Private Military Company |
| PSC | Private Security Company |
| RFID | Radio Frequency Identification |
| SIS | Schengen Information System |
| SIVE | <i>Sistema Integrado de Vigilancia Exterior</i> |
| VIS | Visa Information System |

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Introduction

The Strait of Gibraltar is a fascinating area, mostly known as one of the busiest sea traffic areas in the world. This part of the Mediterranean Sea separates Spain and Morocco by only 14 kilometres and is one of the key routes for immigration crossing to Europe. Thousands of immigrants attempt to cross the Strait every year, risking their lives crammed in rickety vessels.¹ On an annual basis, Spanish coast guards catch more than a thousand (irregular) immigrants, while others are assumed to have drowned in the Strait of Gibraltar (The Australian 2013). Human rights organisations estimate that approximately 4,000 people drowned on the shores of the Strait of Gibraltar between 1997 and 2004, see Appendix I (De Haas 2008:8). In fact, the actual number of drownings is much higher because of an unknown percentage of corpses that are never found (Ibid.). This explains why the Strait is also known as *estrecho del muerte* ('the Strait of death') (Zapata-Barrero 2010:86). The dangers of boat immigration have made it a serious humanitarian challenge; a protracted crisis with a large-scale loss of life. (Pugh 2001; Lutterbeck 2006; Spijkerboer 2007). At the same time, (irregular) immigration has increasingly come to be viewed as a security risk for many if not all European governments (Carling and Hernández-Carretero 2011; Léonard 2010). The persistence of boat immigration lies at the heart of intensified sea border controls and increasing policing activities to make the Strait of Gibraltar impenetrable for (irregular) immigrants and even to prevent them from coming and crossing the Mediterranean sea. There is a large number of public and private actors (with different activities, objectives and priorities) that are actively involved in managing the external borders of the European Union (EU) and (irregular) immigrants, which makes the European borderscape a highly politicized and complex space.² The use of modern surveillance technology by these actors is at the centrepiece of the current architecture of EU border management³. This complex border area not only requires a comprehensive overview of the players and activities of border management in the European borderscape, it also raises questions about the social implications (in terms of human rights issues) and the socio-political consequences for (irregular) immigrants.

This thesis builds on the underlying tension between the protection of Europe, its citizens and

¹ Throughout this thesis, the term '(irregular) immigration/immigrants' is used when referring to the mixed flows of immigrants from Morocco; ranging from ordinary/labour migrants to individuals who are in need of international protection and other vulnerable persons such as victims of trafficking and unaccompanied minors (Di Filippo 2013:56). In line with Carling, it can be argued that this kind of immigration is irregular (or 'unauthorised') in the sense that these immigrants (try to) enter Europe 'without permission' (Carling 2007 in Carling 2011:43). It should however be emphasized that not all immigration is irregular, but this umbrella term is most appropriate for this thesis.

² The term 'external borders' of the EU, in this thesis, refers to EU's land and sea borders and their airports and seaports to which the provisions of the Community Law on the crossing of external borders by persons apply. This term is used because of the tendency that EU's borders gradually shift away from its traditional territorial border, towards the high seas of the Mediterranean Sea.

³ In this thesis, the term 'border management' refers to practices of the EU to expand, reinforce and monitor its external borders. Although most scholars use the term 'border control', it can be argued that this definition implies the notion that (irregular) immigration should be controlled, which in turn implies that it can be seen as a security threat to Europe. Border management is a much more neutral term, which makes it appropriate for this thesis.

its external borders on the one hand and the protection of (irregular) immigrants on the other (Carling and Hernández-Carretero 2011:44). In the face of the constant development and increasing deployment of new technologies of sea surveillance as a means of EU border management (Spijkerboer 2007:127), this thesis will primarily focus on Europe's sea borders between Morocco and the mainland of Spain and its autonomous region the Canary Islands, rather than on its land borders. Drawing on an agency-based approach, this thesis aims to describe and understand how the EU uses and legitimizes technologies of surveillance as means to manage its external borders and flows of (irregular) immigrants from Morocco to Europe. Throughout this thesis, it becomes evident that the crux of the current European immigration issue is located at the individual level where the locus of governance constantly shifts between EU authorities and private security companies (PSCs).⁴ It will be argued that both networks shape the European border area and thus the actions of (irregular) immigrants, which shows the positivist stance of this thesis (Hollis and Smith 1994:107). Given the multitude of actors and surveillance activities in the European borderscape, this thesis does not aim to provide a comprehensive overview of this situation, but rather to shed light on the complex and rapidly-changing character of EU border management.

This thesis is dedicated to provide a further understanding of the deployment of new surveillance technology as a means of EU border management and its social implications and the socio-political consequences for (irregular) immigrants by looking at the way these modern technologies are put into practice and how they are legitimized within EU's immigration policy framework. The social relevance of this topic is based on the increasing demand of EU authorities for new surveillance technology as a means of border management. As a consequence, security and military industries rapidly grow and increasingly offer highly advanced surveillance technologies to the European market. Given the persistence of flows of (irregular) immigrants and fatal sea accidents regarding this group, it becomes more and more important to understand the socio-political consequences for (irregular) immigrants of the current use and the legitimization of new border management technologies. The social relevance of this thesis should not only be understood in terms of its contribution to a greater level of public awareness of these social implications and the socio-political consequences for the position of (irregular) immigrants. This thesis also identifies a lack of information about the growing involvement of PSCs in current practices of EU border management, which urgently calls for further research into this topic.

Within the academic field of international migration studies, EU border management has been a much debated topic in recent decades. Many authors focus on the expansion of Europe's 'migration control' and the shifting geographical locus of Europe's border (Boswell 2003; Lutterbeck 2006; Spijkerboer 2007; De Haas 2008; Ceyhan 2008; Balzacq 2008; Berizzi et al. 2011; Gammeltoft-

⁴ It has to be noted that there is not a clear and commonly accepted definition of PSCs among scholars. Throughout this thesis, the broad notion of Holmqvist (2005:16) is used: "All companies within the security industry that provide a wide range of security services, including military activities".

Hansen 2011; Lemberg-Pedersen 2011; Papademetriou 2011; Dijstelbloem and Broeders 2014). Most of these critical studies have been conducted from a legal perspective, emphasizing the terms of responsibility for human rights when EU Member States offshore border management practices beyond their territorial borders. Many scholars use the concept of state sovereignty and the territorial principles of the Westphalian State system as a framework for their analysis of the rights and obligations of the Union regarding the issue of (irregular) immigration. Although these academic works often include the social implications of the changing character of EU border management and the complex European borderscape, they pay little attention to the socio-political consequences for (irregular) immigrants. On the basis of the analytical model of biopolitics, this master thesis provides a further understanding of the use of new surveillance technologies in the European borderland and the way these technologies are legitimized within EU's immigration policy framework. Based on this insight, this thesis emphasizes the underexposed socio-political consequences for (irregular) immigrants: the fact that they gradually become invisible in the European political debate. In other words, this thesis provides a new and disturbing insight in the shift from the issue of (irregular) immigration as a subject of political debate ('politics of the spectacle'), to (irregular) immigration as a political non-issue that slowly disappears in the so-called 'politics of forgetting'.

In the first chapter, key concepts such as remote border control, public-private partnerships and surveillance will be explained and approached with the subject of this thesis in mind. In addition, the theoretical framework will be laid out which focuses on Duffield's notion of biopolitics, including the theoretical concepts of containment, technologies of power and securitization. The second chapter will discuss state-of-art of surveillance technology, the way these surveillance technologies are brought to practice in the European borderscape and the blurred line between the public and the private sector in the field of EU border management. In the third chapter, there will be a focus on the relation between the deployment of technologies of surveillance as a means of EU border management and human rights and ethical issues regarding (irregular) immigrants. The fourth chapter will discuss how the deployment of surveillance technology, (irregular) immigrants and fundamental human rights issues are addressed in the European policy framework, with a special focus on the process of legitimization. In the conclusion, the main findings of this thesis will be presented, all contributing to the disturbing argument that the changing character of EU border management and the complex European borderscape have created a situation in which (irregular) immigration becomes a persistent phenomenon of our time, instead of a problem that should be solved or a challenge that should be managed.

1. Theoretical framework

1.1 Borders and the changing character of border management

In a rapidly globalising world, territorial borders are taking on a new significance. Borders can be created, shifted, strengthened and deconstructed by a range of actors, events and processes (Pickering and Weber 2006:12). Although we may not necessarily see the lines, borders are very much part of our daily lives. Newman (2006) states that borders not only strengthen our belonging with places and groups, they also perpetuate our notions of difference and ‘othering’. When it comes to moving borders, the borders of Europe can be seen as a good example. While internal border checks have disappeared, there is an increasing pressure on Europe’s external borders. Due to a mutual interest of EU Member States in fortifying the borders of the Schengen area, the ‘global face’ of the EU is changing (Van Houtum 2010:1). External border management is clearly related to the issue of (irregular) immigration. This thesis will focus on the dynamic relationship between the changing character of EU border management and the flows of (irregular) immigration to Europe. Firstly, a brief overview will be given of different theoretical approaches of the concept of borders and the theoretical framework of this thesis.

Although it may not be possible to construct a single theory of borders, the border itself has been a focus of wide-ranging concern for social theorists (Pickering and Weber 2006). In the past decade, contemporary study of borders has become a major growth industry, producing an increasing body of literature. Instead of simply examining borders as lines on a map, this diverse body of literature rather focuses on borders as spaces of cultural, political and security significance (Ibid.). Cultural studies, for example, mainly focus on the way(s) identities are constructed and re-imagined through shifting borders and - at one and the same time – how borders are maintained by cultural and ethnic distinctions (Miller and Hashmi 2001). From this point of view, borders are primarily viewed as indicators of culture and identity (Pickering and Weber 2006). In line with this approach, historians mainly focus on the link between borders, territory, identity and sovereignty of nation-states. In contrast, the discipline of classic geography conceives borders in terms of functionality, rather than meaning or place. Security studies mainly focus on borders as spaces that require protection and defence against external threats and thus control (Rumford 2006 in Pickering and Weber 2006).

This thesis will focus on the concept of borders from a more political (and moral) perspective, approaching borders as institutional sites of governance (Walters 2006:1). Pickering and Weber clearly grasp this approach in the following statement: “The border can be identified as an expression of state power and alternative forms of power in late-modern societies under conditions of globalisation” (Pickering and Weber 2006:12). Academics within the political discipline are mainly interested in the way(s) states exercise authority around their borders. More specifically, authors such as Salter (2004),

Sassen (1999) and Pickering and Weber (2006) focus on the concept of borders as systematic instruments of population management: a space for policing a variety of actors, objects and processes concerning mobility (Salter 2004; Sassen 1999 in Walters 2006:198). This notion is in line with the conventional inside-outside model of borders (Walker 1993) in which the border of Europe is consistent with the edges of the physical territory of its Member States (Guild et al. 2008:1 in Vaughan-Williams 2007:64). Conversely, it can be argued that the concept of borders relates to the site where control takes place on the movement of subjects into the EU, which can also be found outside Europe's territory (Balibar 1998; Vaughan-Williams 2007:64). This disaggregation of Europe's territorial borders and the shifting borders for the movement of people to Europe can be seen as an important assumption that will be employed throughout this thesis. Therefore, the notion of borders of Johnson et al. is most appropriate: "Borders are now to be regarded as processes, practices, discourses, symbols, institutions or networks through which power works" (Johnson et al. 2011: 62 in Dijstelbloem and Broeders 2014:3). From the political perspective, there seems to be special attention for the concept of 'border control': a term that implies a very particular set of power relations (Walters 2006:187). Power relations cannot only be seen as a driving force behind the changing character of borders and border management (Walters 2006:199), but also as an important underlying concept of this thesis.

European border management has been strengthened due to the gradual realization that borders alone cannot stop (irregular) immigration (Broeders 2007:2). Broeders argues that there has been a transformation of the European border which can be characterized by two developments. In his article *The New Digital Borders of Europe*, Broeders refers to the development of internal migration control: the control on those (irregular) immigrants that scaled the walls of Fortress Europe and settled in one of Europe's Member States (Ibid.). Secondly, Broeders points at the development of surveillance technology, encouraged by the EU, which can be used for EU border management as well as internal migration control. In line with authors such as Broeders (2007), Dijstelbloem et al. (2011), Lutterbeck (2006), Walters (2006) and Pickering and Weber (2006), it can be stated that not only the European border is changing, but also the character of EU border management. In this thesis, this changing character will be discussed by focussing on the dynamic relationship between public and private networks of border management, the tendency of border management outside Europe's territorial border and the role modern border management technology.

1.2 Public-private partnerships and remote control

Public-private partnerships (PPPs) have recently become objects of research beyond the nation-state (Börzel and Risse 2002:1). In 1992, Deleuze already stated that there has been a shift in the mechanisms of power, from centered (public authorities) to more fluid (private actors/companies) when looking at issues of border management (Caluya 2010:629). In line with Deleuze, Börzel and

Risse state that non-state actors are increasingly taken into consideration as direct partners of national governments and international organisations in terms of (international) governance. Among scholars, there seems to be consensus that states increasingly delegate certain functions to non-state actors, which shows the growing role of private companies in international politics (also referred to as ‘outsourcing’ or ‘privatization’). Given the variety of problems of governance outside the nation-state, many authors perceive PPPs as a significant solution (Reinicke and Deng 2000 in Börzel and Risse 2005:1). This broadly applicable theory on public-private partnerships can also be applied to the changing character of EU border management. Papademetriou and Collett (2011:2) refer to the increase of international collaboration, public-private partnerships and the rise of private actors as the ‘new architecture of border management’. More specifically, Steden and Sarre (2007) write about the private security ‘industry’ and point at the homogenous character of this group of private companies: all related to the provision of security services, including surveillance technology. The relation among private security companies and between public authorities and PSCs in the field of EU border management will be discussed in the second chapter of this thesis.

When discussing the characteristics of the PPPs in the context of the changing character of European border management, many scholars point at the tendency of ‘remote control’. This concept refers to the removal of the locus of ‘control activities’ away from the physical border and outside the state (Guiraudon and Lahav 2000; Bigo 2002; Salter 2004; Walters 2006; Balzacq 2008). Balibar (2009) provides an interesting insight by arguing that the shift of EU border management practices beyond its actual borderline “reproduces colonial technologies of governance”. In other words, he states that the current tendency of ‘remote border control’ reflects the colonial model of the European capacity to project power beyond its territory. This argument of Balibar shows the link between the current way of EU border management and Duffield’s notion of technologies of power, which will be discussed in section 1.4.

Another important insight regarding the concept of remote control is provided by Guiraudon and Lahav, who state: “Tendencies of remote control involve a double displacement since it moves the locus of control activities away from the borders of the territory, and, in some cases, beyond the formal apparatus of the state” (Guiraudon and Lahav 2000 in Walters 2006:193). This notion of ‘double displacement’ captures the link between both tendencies of privatization and externalization of EU border control that will be discussed in chapter 2. Some scholars, such as Lutterbeck (2006), Broeders (2007) and Dijstelbloem et al. (2011), argue that the tendency of remote EU border management shows the increasing technological nature of the European borders, also referred to as ‘the new technological borders of Europe’. It can be argued that the use of new technologies of border management not only changes the character of what a border is, but also the meaning of border management.

1.3 Surveillance technology as a means of border management

Following the previous section on PPPs, remote border control and new technologies of border management, I will now turn to the concept of surveillance that covers all of these themes. As mentioned earlier, borders are increasingly strengthened (by means of watchtowers, guards, fences, etc.) and equipped with state-of-the-art technology, including technologies of surveillance (Broeders 2007:2). The concept of surveillance can best be defined as a form of border practice, “a portal that monitors people and allows for their categorization” (Vaughan-Williams 2007:68). In the past decade, there has been a shift of focus from the deployment of surveillance as means of internal control on (irregular) immigrants towards surveillance as a means to exclude (irregular) immigrants beyond EU’s territorial borders. Engbersen et al. (2001) has called this the development of a ‘Panopticon Europe’, which refers to a logic of exclusion instead of Foucault’s logic of correction (Broeders and Engbersen 2007:1596). Especially after 11 September 2001, government-led surveillance technology has significantly been intensified in different fields, including the European borderscape (Lyon 2007:1; Guild et al. 2008). Lyon provides an interesting insight in the current practices and technologies of EU border management by arguing that surveillance technology has become a central means of governance, political domination and social ordering. This notion of surveillance touches on the main concepts of the theoretical framework - biopolitics, containment and technologies of power - that will be discussed in the following section.

1.4 Biopolitics, containment and technologies of power

Duffield (2007:225) defines biopolitics as the exertion of power through the regulation and disciplining of people. In other words, biopolitics is primarily about governing the life (and death) of the population. In accordance with Foucault, Duffield distinguishes developed and underdeveloped life and describes the differences between the global north and south through dichotomies such as civilized/barbarian, advanced/backward, active/passive, industrious/sensuous, and so on (Duffield 2007:229). Duffield sees the rise of a discourse in which the underdeveloped world is portrayed as seriously threatening western ways of life: penetrating the borders of mass consumer society, damaging its social cohesion and destabilizing its way of life (Duffield 2007 in Demmers 2012:72). He highlights the importance that is given by western politicians to manage the circulatory flows that link the developed and underdeveloped worlds in the interest of international security (Duffield 2007:151). Here, Duffield’s concept of containment comes in: people need to be regulated and disciplined (Duffield 2008:146). Duffield and Evans (2011:95) argue that concerns over (irregular) immigrants into ‘advanced liberal space’ have created technologies of containment, also referred to as technologies of power, that support and maintain the biopolitical division that separates the global north and the south. In other words, Duffield presents containment as a response of western societies

to the “genuine fears of ordinary people in the global north over the destabilizing effects of the global south”. Duffield points out the increasing human circulation towards the global north and the subsequent security concerns in the developed world which implies the view that (irregular) immigration is a threat to Europe’s pride: the welfare state. In chapter 4, it will be discussed how the notion of security is used by EU authorities to legitimize the deployment of surveillance technology for EU border management within EU’s immigration policy framework.

Drawing on Foucault’s notion of technologies of power, Duffield argues that these technologies can be seen as a means of governance with the aim to control people living on the margins of global society (Duffield 2008). He states that state powers and related power networks use different kind of technologies of power to govern the border. Pickering and Weber (2006:9) argue that technologies of power have become more sophisticated and far-reaching; increasingly employing methods of border management that are highly technical, punitive and innovative. They also point out the application of high-tech sorting and surveillance techniques at and beyond borders (in line with the notion of ‘remote control’), increasing border defence by a range of state actors and the nature of border exclusion (Pickering and Weber 2006:12). In line with Pickering and Weber, Duffield (2013:2) sheds light on the rise of “remote and calculative technologies of power with their powers of simplification, manipulation and simulation” (Ibid.). It can be argued that this observation of Duffield touches on a variety of danger that lurks in these technological and remote technologies of power. In chapter 3, this variety of danger - in terms of human rights and ethical issues - regarding surveillance technologies of EU border management will be discussed. Although Duffield focuses on remote technologies of power (‘remote management’) in the context of development aid in the global south, his argument can also be applied to the current deployment of surveillance technology in the context of EU border management.

1.5 Towards global apartheid?

In the context of the variety of danger of surveillance technology as a European technology of power, it is useful to provide a better insight in the relation between EU border management and social sorting. Walters (2006:197) argues that today’s borders increasingly operate as filters, differentiating previously mentioned dichotomies such as the good and the bad, the useful and the dangerous, the licit and the illicit, and so on. In line with Walters and Lyon, Pickering and Weber (2006:9) point out the selectivity of practices of border management with the aim to facilitate the travel of global elites, while screening out unwanted arrivals. They argue that this network of selectivity can produce “an emerging class of the mobility poor, in order to protect the developed and secure world from the incursions of the poor and insecure”. Such a border network of selectivity, characterized by new border innovations and modern surveillance technologies, can be linked to the notion of ‘global apartheid’ of Richmond et al. (1994). Global apartheid is in line with Duffield’s notion of biopolitics, due to the common notion

of ‘biopolitical control’ of the global south.

From this perspective, it can be argued that remote and new surveillance technologies of EU border management can reinforce certain social positions, especially the position of vulnerable and marginalized populations. This brings up the question of social implications of these technologies, not only in the field of human rights and ethical issues (e.g. marginalization, social sorting), but also in terms of (in)visibility of these marginalized groups. When looking at the socio-political consequences of the changing character of EU border management, there seems to be a link between the deployment of technologies of surveillance and the notion of ‘politics of forgetting’: towards a situation in which the issue of (irregular) immigration changes into a political non-issue. Scholars (such as Lee and Leoh 2004) often link the concept of ‘politics of forgetting’ to themes of globalization, including migration issues. In this thesis, it will be discussed how the issue of (irregular) immigration gradually shifts from the ‘politics of the spectacle’ towards the ‘politics of forgetting’.

1.6 The legitimization of technologies of power

Related to the theory on biopolitics, Duffield (2008:146) also discusses the process of legitimization of technologies of power. In line with Duffield, Zettel (2007: 176) argues that technologies of power are often justified and accepted as necessary means for the defence, stability and security of the European welfare state. More specifically, Duffield (2008:152) states that the portrayal of (irregular) immigration as a ‘locus of threat’ to the security of the developed life can be seen as a means to legitimize certain forms of containment. There is a large body of academic literature on the portrayal of (irregular) immigration as a security threat to European societies (Weaver 1993, Guiraudon 2000; Lohrmann 2000; Huysmans 2000; Collyer 2006; Van Munster and Sterkx 2006; Carling 2011). Some of these scholars (such as Huysmans and Zettel) discuss the underlying aim of the process of legitimization and state that the portrayal of immigration as a security threat justifies a wide range of technologies of border management that would otherwise not have been considered legitimate. In chapter 4, there will be a focus on the legitimization of modern surveillance technology as a means of EU border management and the portrayal of (irregular) immigration within EU’s immigration policy framework.

Other scholars in the field of international migration and security studies (such as Buonfino 2004; Stritzel 2007; Emmers 2007:131) also focus on the portrayal of (irregular) immigration as a security threat, but refer to this as the ‘securitization of immigration’. Buonfino argues that immigration has turned into one of the greatest security concerns of the 21st century in Europe, due to the interplay between national governments, mass media and public opinion (Buonfino 2004:23). The basic notion of securitization is expressed in the work of the Copenhagen School: “The articulation of security entails the claim that something is held to pose a threat to a valued ‘referent object’ that is so existential that it is legitimate to move the issue beyond the established games of ‘normal’ politics to

deal with it by exceptional” (Stritzel 2007:358). It should be noted that the last part of this notion of the Copenhagen School is in line with Huysmans and Zettel who state that securitization makes it possible to deploy means of border management that would not have been considered legitimate without this securitizing practice. The core of the notion of securitization by the Copenhagen School is the speech act by a securitizing actor, which is seen as the starting point of securitization. Although the notion of the Copenhagen School will be used in chapter 4, I agree with the critique of Stritzel on the Copenhagen School’s notion of securitization. In line with Stritzel, it can be argued that security is more than just defining or describing an aspect of security, which makes the notion of the Copenhagen School too one-sided. Therefore, I advocate for a more comprehensive understanding of securitization which focuses more on the entire process of articulations and the performance of actions. It should be noted that Léonard (2010) wrote an article on securitization through practices: the contribution of activities of border management to the “ongoing securitization of asylum and migration in the EU”. Although there will be a focus on securitization by means of framing practices in EU’s immigration policy, I agree with Léonard that the deployment of surveillance technologies and other practices of EU border management also contributes to the securitization of (irregular) immigrants who try to cross the Mediterranean sea to Europe.

However, I agree with the Copenhagen School’s poststructuralist rooted interpretation of securitization and the agency-based approach of the larger body of securitization literature. From this perspective, it should be noted that the notion of securitization departs from the concept of power (Boswell 2007:592). It can be argued that securitization puts certain actors (such as EU political leaders, governments, pressure groups, security agencies, etc.) in a strong position, which enables them to cope with a particular security issue in a way they prefer. In this thesis, it becomes evident that the dominant role of certain public and private actors in the European borderscape and the socio-political consequences of their monopoly on EU border management go along with criticism from both scholars and human rights advocates/groups. Lastly, it should be noted that the previously mentioned poststructuralist rooted interpretation of securitization is in line with the agency-based approach that will be used to study the changing character of EU border politics and the way practices and new surveillance technologies of EU border management are deployed and legitimized.

2. The new architecture of EU border management

“..EU border management is not only in public hands, but also in private and professional hands”

(Dijstelbloem and Broeders 2014:5)

The theoretical framework has shown that every public-private partnership consists of different power relations in which the locus of governance constantly changes. In addition, some scholars argue that there is an increasing level of cooperation between the public and the private sector and thus a rise of public-private partnerships, which is often referred to as the new architecture of border management (Steden and Sarre 2007; Papademetriou and Collett 2011:2). This chapter will focus on the relation between the public and the private network in the context of the European borderscape by identifying both their activities, objectives and priorities in the field of European border management between Morocco and the Spanish mainland.⁵ Within the extensive body of academic literature on the new architecture of EU border management, many scholars point out the sheer variety of private security companies and the way they interact with each other and with the public sector. The complex character of the private security industry makes it difficult to give a comprehensive overview of the field of EU border management. Therefore, this chapter attempts to shed light on the complex character of the new architecture of EU border management, without the aim to capture all of its segments and activities.

There is a consensus among scholars (Steden and Sarre 2007; Gammeltoft-Hansen 2008; Lember-Pedersen 2011) about the significant growth of the private security industry in the European borderscape. This is also referred to as the privatization of EU border management.⁶ The increasing involvement of the private industry in Europe’s border politics is also used as underlying assumption that is heavily criticized by human rights advocate groups and some scholars within academic literature. For instance, Gammeltoft-Hansen and Lember-Pedersen argue that the tendency of privatization increasingly shapes EU legislation on EU border management, according to corporate rather than public interests (Hayes 2009). Gammeltoft-Hansen (2008:163) states that surveillance technologies proposed by private security companies are often not necessary but greedy, because they are driven by their desire for profit rather than the need to solve concrete problems faced by governments. This is also one of the main concerns of activists (e.g. Hayes 2009) and certain human

⁵ It should be noted that some surveillance programmes that will be discussed in this chapter (EUROSUR, operation Indalo and Minerva and several EU database systems) are not only implemented in the Mediterranean sea area between Morocco and Spain, but also in other parts of the Mediterranean Sea.

⁶ Scholars often use the term ‘privatization’ when referring to the trend in which EU bodies increasingly outsource the production of biometrics, surveillance technologies, and information and communication technologies to the private security sector (Ceyhan 2008:106).

rights advocate groups (such as Statewatch) who state that the EU agenda concerning border management of EU's external borders is "heavily skewed towards the interest of the big defence contractors" (Nielsen 2013). In addition, Lemberg-Pedersen (2011:161) argues that PSCs purposefully frame immigration flows as a mounting threat to Europe against which only the defence and security industry can supply the technological solutions. According to Lemberg-Pedersen, this strategy legitimizes the shift from border management to more 'advanced control' in which the involvement of private companies becomes necessary. Gammeltoft-Hansen (2008:159) points out that PSC borderscapes becomes self-perpetuating, because governments (EU Member States) and supra-national institutions grant PSCs long term contracts which makes them "unrivalled experts in advanced border control". As a consequence, it becomes difficult for public actors to revert this trend of outsourcing (Ibid.). Furthermore, it has been argued that the pervasiveness of the private security industry makes it difficult to question the way PSC services and new surveillance technologies facilitate the so-called 'externalization agenda' of EU border management.⁷

Gammeltoft-Hansen calls these risks of the growing involvement of the private security service industry in EU border management 'lock-in effects' that reify European border politics toward militarized and externalized border management (Ibid.). Here, it becomes apparent that the tendency of privatization goes hand in hand with the tendencies of externalization and militarization, which will more elaborately be discussed in section 2.3. Throughout this chapter, there will be argued that these interrelated tendencies can be seen as important characteristics of the new architecture of EU border management. The other goal of this chapter is to test the academic consensus about the increasing involvement of the private security service industry in EU border management. In other words, this chapter will focus on convincing evidence that confirms the previously mentioned consensus among scholars about the significant rise of PSCs in Europe's borderland. First, the main players and activities of EU border management in the Mediterranean Sea will be mapped, in order to develop a further understanding of the relation between the public and the private sector in this complex working field.

2.1 EU authorities and the role of Frontex

Within the larger body of the EU, there is a range of European actors, institutions, agencies and projects that are engaged in multifarious ways in EU border management. When focusing on the decision-making process about the deployment of certain technologies of surveillance, the European Commission (EC) plays the most influential role. In addition, the European Parliament (EP) and the European Council on Justice and Home Affairs are also involved in issues of EU border management. Moreover, EU Member States that mainly act through national police/border agencies and patrols

⁷ The notion of externalization refers to the shift from practices of border management at Europe's territorial borders to the implementation of means of border management outside EU's physical borders.

should also be taken into account. The fact that approximately 80 different security-related national authorities of EU Member States operate in the maritime sector explains why cooperation between these national authorities is complex, especially because each national authority gathers its own data without necessarily sharing it with other national authorities (Nielsen 2013). In 2004, the Commission therefore established EU's border agency Frontex. This European agency has an operational role that implies a coordinative task in activities that are jointly undertaken by the border guard authorities of EU Member States. Moreover, Frontex offers technical and informational assistance for the pervasive surveillance of EU's external borders. It should be noted that the Management Board of Frontex is composed of representatives of the heads of the border guard authorities of the 26 EU Member States that are signatories of the Schengen Agreement (1995) and two important Commission representatives.⁸ In line with Carrera, it can be argued that the composition of this Management Board shows that the Commission exerts influence on EU border management through its agency Frontex (Carrera 2007:9).

In addition to voluntary contributions to Frontex from certain EU Member States, the EC largely subsidises Frontex on an annual basis (Nielsen 2014). From 2006 until 2011, the subsidy of the EC and thus the total budget of Frontex has significantly increased. Although the annual budget of Frontex decreased with 24.2% in 2012, the budget went up again to an amount of 93.940.000 in 2013 (which fits in the general upward trend of Frontex' budget, because of its higher budget than in 2010), see Appendix II. Given the fact that the Commission largely subsidizes Frontex (see Appendix III), the generally increasing annual budget for Frontex shows the increasing interest of the EC for activities of EU border management. In addition, when looking at the final budget distribution of Frontex in 2013, operational activities at sea borders have been (as in previous years) the recipients of the biggest share of Frontex' budget allocations (Appendix V). In addition, it is important to note that the allocated budget for sea operations in 2013 (20.050 euro, which is 46.2% of the total budget for operational activities) significantly increased compared to 8.917 euro in 2010 (45.5% of the total budget for operational activities) (Frontex General Report 2010 and 2013). Furthermore, it should be noted that 4.1% of Frontex' operational budget was assigned to 'Research & Development and the EUROSUR surveillance programme' in 2013 (Appendix V). It can be argued that the generally growing budget and final budget distribution of Frontex show the increasing interest of both the Commission and other EU Member States in sea border programmes and the development of new high-tech border surveillance systems (Carrera 2007:14). The figures of Appendix II, III and V show Europe's increasing surveillance activities in the Mediterranean Sea in the past decade.

Although the objectives and priorities regarding EU border management slightly vary between and within EU bodies such as the Commission, the Council and the Parliament, in general, EU

⁸ Representatives from the United Kingdom, Ireland, Iceland, Lichtenstein, Norway and Switzerland (countries that are not EU Member States, but that are associated with the implementation, application and development of the Schengen Agreement) also participate in Management Board meetings, but have limited voting rights.

authorities mainly emphasize the importance of prevention, early detection (and apprehension) and control of (irregular) immigration flows in the Mediterranean Sea (Carling 2011:46). In other words, “European authorities increasingly seek to obstruct unauthorised migrants before they reach European territory” (Carling and Hernández-Carretero 2011:48). EU authorities are especially in favour of a more widespread deployment of sea border surveillance technologies in order to achieve their main objectives (Hayes et al. 2014: 65). These objectives can be related to Duffield’s notion of containment because of their intention to regulate the life of others. In the light of this comparison, technologies of surveillance that are deployed to prevent, detect, apprehend and control flows of (irregular) immigration can be seen as technologies of power: means of containment (Duffield 2008:146).

When focusing on Frontex’ increasing emphasis on sea border surveillance technologies, there are four projects of Frontex that should be mentioned: operation HERA II (2006), operation Indalo and Minerva (2007) and the European External Border Surveillance System (EUROSUR) (2013). First, while Frontex’ operation HERA I focused on the traditional border sites by identifying and establishing the country of origin of (irregular) immigrants without papers at the territorial borders of the Canary Islands, HERA II focused on a form of pre-border surveillance that occurred along the coast and even deeper into African territory (Vaughan-Williams 2008:68).⁹ This latter operation of Frontex (in collaboration with Spain) brought together technical sea border surveillance equipment from several EU Member States with the expressed aim of preventing (irregular) immigrants from leaving the shores of Morocco and other countries of the western Mediterranean. In order to achieve pre-border surveillance, Frontex deployed technical surveillance equipment such as patrol boats, vessels, surveillance aircrafts and two helicopters, supplied by EU Member States such as Italy, Finland, Portugal and Spain (Carrera 2007:22). In this sense, Vaughan-Williams argues: “HERA II complicates simplistic understandings of the categories of inside/outside, internal/external and EU space/non-EU space and exemplifies Balibar’s pithy observation that in Europe borders are no longer at the border” (Vaughan-Williams 2008:68).

Secondly, operation Indalo and Minerva both came into being in 2007 and focus on strengthening the aerial and maritime surveillance capacity with the aim of early identification of migrant boats from the western Mediterranean (especially Morocco) to southern Spain. It should be noted that HERA II and operation Indalo and Minerva can be seen as clear examples of the tendency of externalization of EU border management that will be discussed in section 2.3.

⁹ The exact actions of the identification process of (irregular) immigrants without papers remain quite vague and underexposed in both Frontex reports and other academic sources. It is only known that experts from France (2), Germany, Italy (2), the Netherlands (2), Norway (1), Portugal (4) and the United Kingdom (2) flew to the Canary Islands to help Spanish officials cope with the mammoth task of interviewing and assisting these (irregular) immigrants (Frontex 2010). Thereafter, this information was verified and analysed by these groups of EU experts. According to an evaluation report of Frontex, Spanish authorities and Frontex experts were able to identify all 18.987 (irregular) immigrants who arrived in the Canary Islands. In this report, it is stated that these ‘would-be immigrants’ and thousands of others turned back at the West African coast under HERA II.

Thirdly, the programme EUROSUR (commissioned by the EC) became operational in October 2013 and focuses on unauthorised border crossing (Carling and Hernández-Carretero 2011 in Dijstelbloem and Broeders 2014; EUROSUR 2013). EUROSUR was initiated to facilitate and increase surveillance of Europe's sea and land borders, using a vast array of new state-of-art technologies, such as unmanned aerial vehicles (commonly known as drones), marine navigation systems, radars, off-shore sensors and satellite tracking systems (Papametriou and Collett 2011:7). These technologies of surveillance are integrated into one comprehensive network to provide surveillance information on EU's southern borders and the pre-frontier sea area on a more frequent and reliable basis (Shields 2010:10). It should be noted that the surveillance data of EUROSUR is used to construct a so-called 'European Situational Picture' and a 'Common Pre-Frontier Intelligence Picture' with the aim to detect and stop migrant vessels before they reach Europe's territorial borders.

EUROSUR also shares its data with EU databases such as the Schengen Information System (SIS I), SIS II, the Visa Information System (VIS) and European Dactyloscopy (EURODAC). While SIS II processes and stores personal data of 'unwanted third country nationals' who are not allowed to enter the Schengen Zone, VIS and EURODAC mainly contain so-called 'biocentric data' (Ceyhan 2008:204). For instance, the VIS processes and stores fingerprints and facial images of all visa applicants and performs a check against the stored data at the border crossing (Berglund and Karbauskaite 2008:107). In addition, the EURODAC biometric database system stores the fingerprints of asylum seekers in order to identify asylum seekers and (irregular) immigrants (Broeders 2007). These European databases can also be seen as technologies of surveillance because they make use of a range of information technology to collect, store, check, compare and exchange all kinds of data and profiles of (irregular) migrants, travellers and their social and professional context. Data is gathered by biometric technology of which the most common ones are retina prints, iris prints, finger print scans, silhouette identification and gait prints, face recognition, facial thermograms, voice prints, bone scans and DNA processing devices (Garfinkel 2000:59; Dijstelbloem and Broeders 2014:3). Since the beginning of this century, biometric technology has become a key technology to facilitate border management. According to Alterman (2003:139), these biometric scanning systems do not just record the entire imprint of an individual, but only the part, or 'template', that is time-invariant such as the retina.

Although EU databases are located at Europe's territorial border, they contain personal data and/or biometric information about (irregular) immigrants outside EU's external borders and even in maritime territories of third countries such as Morocco. These data systems are linked to surveillance programmes such as HERA II, operation Indalo and Minerva, EUROSUR, SIVE and CLOSEYE, in order to receive this kind of personal information. EU (biometric) databases and biometric technology can thus be seen as closely related technologies of surveillance in the context of Europe's border management. It should be noted that surveillance technologies that are implemented as part of these surveillance programmes increasingly include biometric technology. For instance, aerial means of

surveillance often contain biometric technologies such as high-resolution cameras and thermal imaging that enable these surveillance technologies to recognize and record (irregular) immigrants in the Mediterranean Sea.

2.1.1 The use of surveillance technology outside Spain's territorial border

Due to Spain's geographical location - faced by migratory pressure on the coast of Andalucia and on the southern and eastern coasts of the Canary Islands - the country is at the forefront in the deployment of surveillance technologies in the Mediterranean Sea between Morocco and Spain. Spain's approach to manage (irregular) immigration from Morocco has focused on early detection and apprehension of arriving migrants (Carling and Hernández-Carretero 2011:45). First of all, Spanish public authorities deploy Spanish border guards who increasingly use land-based technologies of surveillance along the border, such as night vision equipment to combat so-called 'illicit border crossing' (Andreas 2000; Koslowski 2001; Shields 2010:6). Secondly, the Spanish gendarmerie, the *Guardia Civil*, also operates across the Mediterranean Sea with a staff of 1.100 policemen and a fleet of 67 patrol vessels and speedboats. These patrol vessels are equipped with technologies of surveillance such as mobile radar units, cameras, thermal cameras, heartbeat detectors and vessel monitoring systems.

The cornerstone of Spain's immigration approach is the external surveillance system SIVE (*Sistema Integrado de Vigilancia Exterior*), established in 1999 and in operation since 2002 (Carling and Hernández-Carretero 2011:45). SIVE is implemented by the *Guardia Civil* with assistance of the Spanish border guards and largely funded by Frontex. This land-based system can support maritime surveillance in the Mediterranean Sea between Morocco and Spain and thus enables the *Guardia Civil* and the Spanish border guards to monitor the sea and identify suspicious small vessels when they are still several miles from shore. Subsequently, this technologically sophisticated system sends the information to a central command unit that co-ordinates interception if necessary (Carling 2007 in Carling and Hernández-Carretero 2011:45). Salvador Gomez, one of the officials of SIVE, states that the system can even track and make visible swimming objects that barely stick out of the water's surface and are less than a meter long (Leidel 2007). Except for aerial means of surveillance, the majority of these technologies of surveillance are land-based technologies with the capacity of reaching over large parts of the Mediterranean Sea: controlling Europe's virtual border.

In the context of the proceedings of Spanish public authorities (the *Guardia Civil* and the Spanish border guards), a multimillion euro border management project was launched in Spain in May 2013 under the name CLOSEYE. This relatively new EU project is intended to deploy drones (such as the Camcopter S-100), satellites and aerostats in the southern Mediterranean in an attempt to provide the EU with an 'operational and technical framework' that improves and increases information about

the pre-frontier area and thus the reaction capabilities of Spanish authorities (Statewatch 2014). Despite the fact that the deployment of drones, as a means of EU border management in the Mediterranean Sea, is one of the main priorities of the Commission, it should be noted that drones are not yet deployed because of the current ban on the use of drones in European airspace.

2.1.2 The use of surveillance technology at Spain's territorial border

Although the use of land-based technologies of surveillance with the capacity to monitor large parts of the Mediterranean Sea has already been discussed, there are also new technologies of surveillance that are deployed to monitor the external land borders of Spain (and thus the EU). Spanish authorities mainly focus on the deployment of technologies of surveillance along the land borders of Melilla and Ceuta: two Spanish exclaves located in the north of Morocco (also referred to as two of the most contested territories in Europe) (Ribas 2011:2).

Due to a number of serious incidents with sub-Saharan migrants who tried to climb over the fences of both its exclaves since 2005, Spain increasingly uses high-tech means to reinforce these land borders (Ibid.). According to an article in *The Guardian* in March 2014, Spain already spent more than 30 million to strengthen the borders around Melilla and Ceuta, which led to barbed-wire fencing that grew from three to six meters high and the deployment of new surveillance technologies such as high-tech infrared cameras, motion and noise detectors and heat sensors. In March 2014, Spain's interior minister announced that Spain will spend another 2.3 million euro on surveillance technology to fortify the borders of Melilla and Ceuta in an attempt to deter the thousands of immigrants.

2.2 The complex European private security service industry

In the last two decades, the creation of new technologies of surveillance has become a lucrative business that increasingly attracts PSCs. In other words, the increasing emphasis of the EU on strengthening its external borders and EU's pre-frontier area has become a real and complex industry, also referred to as the 'European private security services industry'. Two of the world's largest PSCs in the high technology sector that are involved in technologies of border management are the Italian industrial group Finmeccanica and the Dutch company G4S. Finmeccanica is mainly active in the field of aerospace, defence and security and operates in different sectors: aeronautics, helicopters, space, electronics, defence systems, transportation and surveillance technology (that has been expanded in 2013). While Finmeccanica mainly pursues contracts for border infrastructures, G4S focuses on contracts outsourcing the operation of border management services. PSCs can thus be divided into two categories of which the first group is involved in the creation of technologies of surveillance. The second group consists of PSCs that construct surveillance technology, transfer it to a particular host state and receive a contract for maintaining and operating it themselves (such as EADS and G4S).

There are also other private companies that are often involved in the development/ implementation of new surveillance technologies for EU surveillance programmes in and around the Mediterranean Sea. For instance, the French security company Thales mainly develops microdrones and provides various capabilities to support maritime surveillance and abnormal behaviour detection technologies to support operators in the Mediterranean Sea. Another influential PSC is the Dutch company European Aeronautic Defence and Space (EADS), an expert on both the construction and the execution of coastal surveillance systems and maritime security systems. Cassidian (the military wing of the EADS company), in turn, produces drones for airborne intelligence, coastal and border surveillance systems, advanced security systems, radars, critical site protection and other sensors. In addition, the Safran Group (Aerospace-Defence-Security) is a private company that holds European leadership in the field of aerospace, defence and security. The Safran Group is a private firm that mainly supplies optronics, navigation, observation and surveillance solutions for all marine and defence applications, ranging from infrared cameras to multi-channel surveillance systems.

Lastly, I will briefly discuss Indra, a Spanish IT company and leading multinational in the development and start-up of coastal surveillance systems in Europe. The company's system consists of three surveillance stations with long-range cameras, including radar systems and optronic sensors (infrared and visible), a repeating station and a command and control centre, located at the Civil Guard headquarters in Tarragona. It should be noted that Indra, in addition to Spain's biggest security firm Prosegur, has been one of the contractors of the Spanish surveillance programme SIVE (Leidel 2007). Other PSCs that are often contracted by Frontex and various EU Member States are private companies such as Martin, FAST Protect AG, L-3 Communications, FLIR Systems, SCOTTY Group Austria, Diamond, Boeing, Airborne Sensing and Inmarsat.

It should be noted that this is a limited overview of the main private players that are involved in the creation and sometimes even the implementation of surveillance technology in the context of EU border management. The European private security service industry includes many more private companies that are related to each other and to the public sector in multifarious ways. In line with Steden and Sarre (2007:223), it can be stated that the private security industry is a multitude of small and large companies with different specializations, structures, authorities and purposes. The sheer variety of private security occupations and the fact that this working area is mainly left out of the public domain make it difficult to measure and describe the magnitude of this industry and its involvement in EU border management.

Majority of the PSCs that is involved in the development of new surveillance technologies for EU border management is represented in umbrella organisations of which the most common are the European Organisation for Security (EOS) (representing providers of equipment and technology-based solutions and services) and the Confederation of European Security Services (CoESS) (representing providers of skilled guarding services and security systems operators). Together, CoESS and EOS represent the interests and expertise of more than 60.000 security companies, which translates in

approximately 4.2 million employees in Europe. Both umbrella organisations mainly promote the creation of or support public-private partnerships at the European level, encompassing all relevant stakeholders (Rebuffi 2010:7). It can be argued that these mediation bodies of the EU serve as an effective link between European institutions and the complex European private security services industry (Ibid.). In addition, PSCs that are represented in EOS and CoESS also strengthen each other's position in the larger picture of providing surveillance services. When joining forces, PSCs are more influential in relation to EU institutions in the field of EU border management (Ibid.). For instance, it has been argued that private security companies, associated with EOS, have succeeded in exerting pressure on EU legislators and influencing EU legislative files and policy initiatives when it comes to EU defence and security strategies (Nielsen 2013).

2.2.1 Towards more public-private partnerships

“Fuelled by a new politics of fear and insecurity, the corporate interest in selling security technology and the national security interest in buying security technology has converged at the EU level”

(Steden and Sarre 2007:223)

As has already been discussed, there is a growing demand of the Commission and the Parliament for the involvement of PSCs to develop new surveillance technology for EU border management in the Mediterranean Sea (Guiraudon 2000:257). Gammeltoft-Hansen (2008:163) states that there is an increasing cooperation between Europe's border agency Frontex and private security companies since the EP granted Frontex the right to purchase its own equipment in 2011. Up till then, Frontex was dependent on EU Member States and defence/police forces for its equipment. The high level of European willingness to collaborate with the private security sector is expressed in millions of euro's that the Commission invests in the private industry by means of public funds (Gardner 2011:4). At the same time, scholars emphasize the corporate interest in selling security/surveillance technology to European institutions/agencies. Although PSCs have different fields of expertise, they all share the same motive: generating profits for their shareholders by means of new projects (contracts). Given the fact that European private actors in the field of surveillance technology face stiff competition from the American and Chinese industry, they all focus on expanding the existing EU security industry and creating new markets (Nielsen 2013). For example, EOS' members actively and strategically support Frontex and other common European venues to sustain their interests in developing a European market for security and borderscape contracts (Ibid.). By means of their membership of EOS or CoESS and the increasing level of cooperation between PSCs, these companies try to achieve their shared corporate interests (Gardner 2011:9).

Cooperation between PSCs (partnerships within the private sector) becomes apparent in the

establishment of new surveillance projects such as EU projects: Perseus, Seabilla (EU Sea Border Surveillance systems) and Operamar (providing the foundations for pan-European Maritime Security Awareness (Ibid.). For instance, project Persues was formed by Frontex and multinational security companies Indra and EADS in 2011 (Lemberg-Pedersen 2011:29). This project was initiated to build and demonstrate an EU maritime surveillance system integrating existing national and communitarian installations and enhancing them with new innovative technologies. In addition to these partnerships among PSCs, it can be argued that ‘sub-contracting’ of certain security companies to other PSCs also contributes to a stronger position of private companies in EU border politics. The process in which PSCs outsource certain practices of EU border management to each other can be illustrated with the EUROSUR programme in which a substantial amount of sub-contracting was involved. The research and development project for EUROSUR, for example, was outsourced to the German conglomerate ESG, which then subcontracted the Finmeccanica subsidiary SELEX-SI, French Thales, US based AGIS, and the European conglomerate EADS (Lemberg-Pedersen 2011:157). Although PSCs in fact compete with each other (Ibid.), the previous example shows that these companies also work together in multifarious ways in order to strengthen their position as private actors within the larger field of EU border management.

Despite the increasing influence of PSCs, it should be taken into account that EU public authorities often have a share in these private companies. For example, the Italian industrial group Finmeccanica is partly owned by the Italian government, which holds about 30% of Finmeccanica’s shares (Defence Industry Reports 2014). Shareholding can be seen as a way in which EU authorities try to retain their monopoly over the emerging means of power in the field of EU border management. The example of shareholding not only shows the complex character of PSCs, but also sheds light on the blurred line between the public and the private sector in the field of EU border management. Furthermore, the Commission also retains its dominant position by means of influencing and acting through its border agency Frontex.

In this section, I have elaborated the statement of Steden and Sarre (2007:223) that the increasing EU interest in buying security technology and collaborating with PSCs coincides with the corporate interests in selling this kind of technology to European institutions/agencies. Based on the previously mentioned examples and anecdotic information of scholars, it can be argued that this mutual interest converges at the EU level, which leads to more public-private partnerships in the field of EU border management (Ibid.). However, there is a lack of exact numbers, figures and statistics on the growing involvement of PSCs in EU border politics regarding the Mediterranean Sea. This lack of available data about the pervasiveness of the private security industry is in line with the (often criticized) lack of transparency of the managed activities of EU’s border agency Frontex and its collaboration with the private security service industry (Guild 2011). As previously mentioned, this lack of available data is an important finding in itself because it shows the hidden character of this industry and the fact that it purposefully keeps itself out of the European public debate. This enables

PSCs to collaborate with EU authorities and freely operate within the European borderscape without being subject to criticism and public debate.

2.3 The privatization-externalization-militarization nexus

As previously discussed, the current relationship between the public and private sector in the field of EU border management, with special reference to the significant growth of the private security industry, contributes to the tendency of externalization of EU border management (Gammeltoft-Hansen 2008:159).¹⁰ Here, the notion of ‘double displacement’ (Guiraudon and Lahav 2000 in Walters 2006:193) provides an interesting insight in the current situation of EU border management. This theoretical concept refers to the ambiguous notion of externalization in which there is a shift in the locus of ‘control activities’ (externalization) and a shift in the locus of authority: beyond the formal apparatus of the state (privatization). In the context of EU border management, it can be argued that privatization and externalization are inextricably linked to each other: they are mutually constitutive tendencies. This argument implies that the tendency of privatization does not only lead to externalization of EU border management, but also the other way around. On the other hand, it can be stated that the shift in border management, towards governance structures including cooperation with private companies, “detaches border management from physical and bureaucratic structures managed by public authorities to more virtual structures operated by private companies” (Dijstelbloem and Broeders 2014:5). Gammeltoft-Hansen (2008:155) more specifically formulates: “Outsourcing of border functions to PSCs has resulted in the re-bordering, premised on the application of surveillance software to achieve objects such as the real time detection and prevention of illegal migration, or transformation, of the spatiality of Europe’s borders”. On the one hand, externalization is multifaceted: it needs to take place through venues such as the involvement of private actors in border functions (Lemberg-Pedersen 2011:2).

In the context of the ambiguous notion of externalization regarding EU border management, surveillance technology that is implemented in the Mediterranean Sea (also referred to as sea surveillance) plays a crucial role. Due to the development and use of new technologies of surveillance, it becomes possible to prevent, detect, apprehend and control flows of (irregular) migrants before they reach the territorial borders of Europe. Technologies of early detection, for example, are frequently used in surveillance programmes such as SIVE and EUROSUR (Ibid.). For instance, the EUROSUR border project is premised on the European desire to create a common pre-frontier intelligence picture in order to monitor and, if necessary, prevent irregular migrants from reaching Europe’s territorial border (Lemberg-Pedersen 2011:7). Given the special interest and funding of EU authorities for the creation of the surveillance technology of drones in European border surveillance operations in the

¹⁰ Scholars also refer to this tendency as ‘remote control’, ‘extraterritorial migration control’ or ‘pre-frontier border control’.

Mediterranean Sea, recent developments in the field of drones will briefly be discussed.

Drones are capable to find and follow specific persons with a distance of 40 nautical miles from the coasts of EU Member States, which is further than the reach of coastal radar stations. According to Hayes and Vermeulen (2012), drones can be equipped with other surveillance technologies such as high-resolution cameras, microphones, thermal imaging and the capacity to intercept wireless communications. They argue that a certain type of high-tech drones is even able to recognize ‘preparatory activities’ such as the erection of tents, huts, the gathering of vehicles or boats placed on the beach of a third country that might indicate (irregular) immigration. This shows the capacity of drones in terms of prevention, which makes it a ‘popular surveillance technology’ among EU authorities. While the United States already use drones in border surveillance operations since 2002, there is a lot of discussion and critique among EU authorities and Member States on the use of drones in European border surveillance operations. Despite the current ban on the use of drones in European airspace and the contested public debate on the legitimacy of subsidising the creation of drones by the EU, the EC commissioned and funded a number of research projects and studies to develop and implement drone systems. The Commission outsourced the development of drones to private suppliers of combat drones such as Dassault, Aviation, Thales, EADS, Scotty Group and Boeing (Hayes et al. 2014).

The increasing attention for the use of drones not only reflects the tendency of privatization and externalization, it also shows the militarization of EU border management. According to Hayes et al., drones that are usually created for military purposes (providing ‘offensive services’) are increasingly used in a small but growing number of civilian applications (Hayes et al. 2014 in Holmqvist 2005:5). In addition to the high level of willingness of EU authorities to use drones as means of EU border management, there are also other surveillance technologies, usually implemented in military context, that are increasingly deployed for the civilian purpose of EU border management such as radio frequency identification (RFID), electronic tagging and satellite monitoring (Hayes et al. 2014:8). Holmqvist states that private military companies (PMCs) are increasingly involved in the creation and implementation of technologies of surveillance that are used for civilian practices such as EU border management. Therefore, he problematizes the distinction that is often made between PMCs and PSCs (Holmqvist 2005:5). For instance, previously discussed PSCs such as EADS, Indra, Thales, Cassidian and Finmeccanica provide military services that are increasingly sold and deployed for civilian use. In addition, many military companies have created a security department to produce new security technology for governmental and civilian use, which shows their increasing interest in the booming security market (Ceyhan 2008:108). Therefore, one can speak of a blurred boundary between the security and military private sector in the field of the provision of surveillance technology for practices of European border management.

This section has shown that the tendency of privatization goes hand in hand with the tendencies of externalization and militarization in the context of EU border management. Although it

has never been used by other scholars, one should refer to these interrelated processes as the ‘privatization-externalization-militarization nexus’. This nexus can be seen as an important characteristic of the new architecture of EU border management in which (sea) surveillance technology plays a crucial role.

By mapping the main players and their activities in the field of EU border management, it has become clear that the public and private sector are connected to each other in multifarious ways. These relations include outsourcing of the creation of surveillance technology (by EU authorities) to the private security sector; partly government-owned private companies; joint ventures or fierce competition between PSCs and sub-contracting among private security companies. It has been stated that these public-private partnerships contribute to a blurred line between the public and the private sector. The way these networks are integrated into each other explains the complex character of EU border management in the Mediterranean Sea. In addition, it should be noted that there are many connections and partnerships within the private security industry which makes it even more difficult to map the entire picture of border management in the European borderscape. In line with many scholars, based on limited and anecdotic information (e.g. about increasing mutual interest of the public and private sector, reflected in more PPPs), it seems likely that there is indeed a rise of PSCs in the European borderscape.

It should be noted that there are no statistics or other forms of data that confirm the significant growth and pervasiveness of the private security sector in EU border management. Despite the consensus among scholar about the increasing level of involvement of private security companies, it remains difficult to prove this observation. It can be argued that the lack of data about this ‘rising industry’ shows the hidden character of this industry and the way it (purposefully) keeps itself out of the public debate. The fact that there is little known and published about the exact numbers of the pervasiveness of PSCs in current practices of EU border management might be a strategy of this industry to ensure that they are kept out of the public domain, which prevents them from becoming a subject of debate. Given the high level of public debate on the legitimacy and deployment of new technologies of surveillance (e.g. drones), this conclusion seems plausible. The lack of evidence of the growing involvement of PSCs cannot only be seen as a meaningful conclusion in itself, but also urgently calls for further research on this topic.

3. Keeping immigrants out at what costs?

“Almost all the hard questions of our time . . . converge on the status of borders; of boundaries, distinctions, discriminations, inclusions, exclusions, beginnings, endings, limitations and exceptions, and on their authorization by subjects who are always susceptible to inclusion or exclusion by the borders they are persuaded to authorize”

(Walker 2006:57)

The so-called ‘technological society’ in which we currently live constantly challenges the position of citizens in many respects: political, juridical and in the field of human rights (Dijstelbloem et al. 2011:4). More specifically, technology in the form of a new European technological border increasingly takes over the human aspect. This chapter will discuss how the deployment of new surveillance technology both at and outside EU’s territorial border relates to human rights considerations and the greater issue of human dignity: a crucial aspect that is often overshadowed in the current political debate on EU border management. Is the increasing use of modern technologies of containment in the European borderland ethically correct? It should be noted that this chapter focuses on surveillance technologies that are deployed at Europe’s physical border, whereas the previous chapter mainly discussed the use of technologies of surveillance outside EU’s territorial border.

Firstly, there will be a focus on the relation between the way in which surveillance technologies are brought to practice (mainly referring to the tendencies of externalization, privatization and militarization) and fundamental human rights considerations. Secondly, the dialectic relationship between the expansion of surveillance technologies in the Mediterranean Sea on the one hand, and emerging alternative routes and the increasing involvement of human smugglers on the other will be discussed. Thirdly, it will be discussed how related surveillance technologies at EU’s territorial border (particularly EU databases and biometric technologies) interfere with the broad concept of human rights, including privacy and ethical issues such as personal data protection, bodily integrity and social sorting (Wood and Ball 2006).¹¹ In this chapter, it becomes apparent that privacy represents a key framework through which new technologies of surveillance are critiqued (Finn and Wright 2012:185; Wood and Ball 2006). Here, Alterman’s (2003:143) notion of privacy will be used: “The right to maintain control over how and when our embodied selves are represented to other”. In addition to the fact that the increasing deployment of surveillance technology touches on the greater issue of human

¹¹ Human rights are basic rights and freedoms that all people are entitled to regardless of nationality, sex, national or ethnic origin, race, religion, language, or other status. They are all interrelated, interdependent and indivisible (OHCHR 1996-2014).

dignity, this chapter will show that it also entails disturbing socio-political consequences. The current way of border management, characterized by the deployment of surveillance technology before and at EU's territorial border, gradually makes (irregular) immigrants invisible in the European public debate. It seems that the issue of (irregular) immigration in the European borderscape shifts from the 'politics of the spectacle' towards the 'politics of forgetting'.

3.1 EU border management practices and human rights considerations

As has been discussed in the previous chapter, most of Europe's surveillance practices of border management are carried out through EU's border agency Frontex. When focusing on the way Frontex carries out surveillance proceedings, it should be noted that there is a lack of transparency of the managed activities of Frontex which makes it difficult to oversee the human rights compliance of this agency. However, oversight on Frontex' human rights compliance is crucial because there are a lot of concerns about the human rights impact of its operations, particularly its operations at sea. In the context of these sea operations, the tendency of externalization and the focus on prevention (by means of pre-border surveillance activities in the Mediterranean Sea) touch on human rights considerations. These concerns refer to specific protection needs of migrants that do not appear to be taken into account (Frontex General Report 2013). In addition, externalization entails surveillance operations in the maritime territory of Morocco that obstruct (irregular) immigrants outside the European borders which can deprive them from the right of every person to leave any country, including their own, enshrined in international instruments such as Article 13 (2) of the Universal Declaration of Human Rights and Article 12 (2) of the International Covenant on Civil and Political Rights and in binding regional instruments like the European Convention for the Protection of Human Rights and Fundamental Freedoms (Protocol No. 4). Deprivation of the right to leave any country also means denial of the rights (obtained at the European border) to seek asylum and to appeal refusal of entry (Carling and Hernández-Carretero 2011:52). The report of Frontex rights-based opponent Frontexit mainly refers to the HERA operations of Frontex as a fruitful area of analysis when looking at the violation of this principle. According to this report, optimized aerial and maritime surveillance of Frontex close to the territory of the two countries have led to a significant reduction in the number of intercepted (irregular) immigrants, some even before leaving the African coast. In other words, the use of surveillance technologies during these externalized Frontex operations avoids (irregular) immigrants from leaving the mainland of Morocco which, in fact, makes such operations a violation of the right to leave any territory (Keller et al. 2011:12). It should be noted that the denial of these fundamental human rights, because of the current emphasis on pre-border surveillance activities, is completely left out of the public debate on EU border management.

In addition, the tendencies of privatization and militarization of EU border management also touch on human rights considerations. Several privacy advocates and human rights groups argue that

the lack of a comprehensive EU legal framework, including regulations regarding the proceedings of PSCs, also entails a lack of control (mechanisms) on the implementation of surveillance technology by private companies (Keller et al. 2011; Hayes et al. 2014; Statewatch 2014). Assumed that many private security companies mainly act out of a desire for profit, I agree with Spijkerboer (2007:135) that surveillance is often seen as primary mission and human rights issues as a secondary concern. In other words, the technical and quasi-military approach of private companies leaves little room for human rights considerations. Given the current focus on surveillance technology and the lack of EU legislation and control mechanisms for its implementation by private actors, it can be argued that there is no monitoring of compliance with human rights by PSCs (Hayes 2014:14). As mentioned in the previous chapter, drones can be seen as a new surveillance technology that precisely reflects the privatization-externalization-militarization nexus: containing all of its facets. The increasing public attention and demand for drone technology for maritime surveillance purposes also raised some significant privacy concerns among scholars and civil society organisations (Finn and Wright 2012:184; Hayes 2014:14).

Finn and Wright mainly found that drones do not adequately address privacy and human rights concerns since these heterogeneous devices are complex, multimodal surveillance systems that integrate a range of technologies and capabilities (Finn and Wright 2012:185). Instead, there only is a focus on the technical capabilities and potential applications of drones (Lyon 2007:70). In addition, Hayes argues that the use of drones raises far reaching and serious privacy issues because everything gets monitored, photographed, tracked and targeted by these devices for maritime surveillance (Hayes 2006 in Finn and Wright 2012:190). Hayes therefore states that the deployment of drones means that much more personal data will be collected and processed than is being claimed. Furthermore, he states that drones and other robotic tools will contribute to “a mentality where bodies are objectified into things to track, monitor and apprehend”(Ibid.). In line with Papametriou and Collett (2011:7), it can be argued that these privacy arguments regarding drones also apply to other state-of-art surveillance technologies such as radars, off-shore sensors and satellite tracking systems. The deployment of these new technologies of surveillance for EU border management can thus be seen as a worrisome development when looking at the previously discussed human rights concerns.

It should be noted that the majority of privacy concerns about the possible use of drones points at the lack of EU regulation regarding the privacy impact of drones (Finn and Wright 2012:191). On the other hand, it should be taken into account that the widely varying technological equipment of drone devices makes it difficult to establish overarching EU legislation and regulatory mechanisms to prevent intrusion on civil liberties (Finn and Wright 2012:186).

3.2 The cat and mouse game

“States and their subjects or citizens routinely play cat and mouse with individual identification requirements. And even though the jury is still out on the outcome, it still seems realistic to concede that so far the cat has held the better cards”

(Caplan and Torpey 2001:7 in Broeders and Engbersen 2007:1594)

The tendencies of externalization, privatization and militarization are all expressions of the general tendency: the expansion and reinforcement of EU border management by means of surveillance technology. Many scholars state that the deployment of surveillance technology relates to certain human rights considerations, also known as the ‘human costs’ of recent border management (Andreas 2003; Lutterbeck 2006; Broeders and Engbersen 2007; Spijkerboer 2007; Shields 2010; Grey 2011; Di Filippo 2013). They argue that extraterritorial surveillance in the Mediterranean leads to the displacement of immigration flows: the so-called ‘waterbed effect’ or the ‘squeezed balloon syndrome’ (Dijstelbloem et al. 2011:2). According to these authors, (irregular) immigrants move around the surveilled areas and take more dangerous routes when safe itineraries are blocked. These alternative routes expose immigrants to even greater risks, which enhances the number of fatalities among irregular immigrants. Shields (2010:259) refers to this tendency as the ‘diversion effect’ and states that a similar effect has been evident along Spain’s southern borders.

For instance, Spain’s maritime surveillance system SIVE was initially deployed along the northern coast of the Strait of Gibraltar, which made the Strait of Gibraltar the most heavily monitored part of the entire Mediterranean. As a result, (irregular) immigrants eschewed the Strait of Gibraltar and shifted to areas of the Spanish coastline that were under less surveillance: the Canary Islands. As a result, between 2004 and 2006, the Spanish authorities extended SIVE to the entire Andalucian Coast and some of the Canary Islands, see Appendix VI (Carling 2007:326 in Shields 2010:263). By the end of 2006, the number of (irregular) immigrants that arrived in those Canary Islands without SIVE coverage increased significantly. According to the Spanish authorities, the total number of arrivals on the Canary Islands reached new heights as a result of this development (Carrera 2005:12 in Shields 2010:263). Spanish authorities presented this shift of immigration flows as a ‘massive invasion of illegal migrants’ which required an ‘urgent European solution’.¹² As a result, the EU mobilized its border agency Frontex that set up operation HERA I.

In addition to the diversion of migratory flows towards more dangerous routes, there is another perverse side effect of the implementation of extraterritorial surveillance technologies in the

¹² Speech of President of the Government of the Canary Islands (Adan Martin Menis) in the Parliament. Joint Parliamentary Meeting ‘*From Tampere to The Hague: Moving Forward? Progress and Shortcomings in the Area of Freedom, Security and Justice*’, 2 and 3 October 2006.

Mediterranean Sea. This side effect can be illustrated on the basis of the extension of SIVE to the Canary Islands as mentioned before. As a result of this extension of surveillance technologies, scholars argue that there has been growing involvement of human smugglers (Lutterbeck 2006:74). Human smugglers adapt a significant variety of techniques in order to circumvent sea surveillance technologies (Di Filippo 2013:55). Some of these strategies are using/overloading small boats that are unsuited for long journeys such as speed rubber dinghies, hiding (irregular) immigrants in ferries or dangerous cargoes in regular service and quickly unloading (irregular) immigrants before they reach the main land (Ibid.). It should be noted that the growing involvement of human smugglers also contributes to the previously discussed tendency of taking alternative and often more dangerous routes. These strategies highlight the increasing dangerous nature of practices of border crossing by (irregular) immigrants and thus the more frequent occurrence of tragic outcomes. In line with Spijkerboer (2007:127), I argue that there is a threefold relation between the recent focus on sea borders and the increasing technical and quasi-military approach of EU border management (the privatization-externalization-militarization nexus), alternative routes and the increasingly prominent role of human smugglers, and the growing number of casualties at Europe's maritime borders.

Although precise statistics on the number of deaths are largely incomplete as an unknown number of corpses is never found, many migrants have drowned while trying to enter Europe by means of alternative routes or particular border crossing strategies of human smugglers (Di Filippo 2013:56). Many scholars point at the vicious circle in which smuggling practices are strategically used by EU authorities to legitimize its counterstrategy: a new round of 'state-of-the-art' surveillance initiatives (Andreas 2003; Lutterbeck 2006; Broeders and Engbersen 2007; Spijkerboer 2007; Shields 2010; Carling and Hernández-Carretero 2011; Di Filippo 2013). They argue that the increasing use of sea surveillance technology, in turn, leads to more risky alternative routes and growing involvement of human smugglers with dangerous border crossing strategies. Concrete proposals of the Commission for projects to expand and reinforce current practices of sea surveillance can thus be seen as part of this process of 'border escalation' (Lutterbeck 2006:77). It is remarkable that EU authorities mainly portray human smugglers as the crux of the problem in order to justify the use of sophisticated surveillance equipment, without acknowledging that it is precisely this effort that fosters the involvement of human smugglers and the growing professionalism of these smugglers (Ibid.). In line with Carling and Hernández-Carretero (2011:52), it can be stated that this vicious cycle is a source of great concern when looking at all the lives that are silently lost at sea.

3.3 Biometric technologies and EU databases at EU's territorial border

This section explains how biometric technology and EU (biometric) databases are related to major privacy issues such as bodily integrity and personal data protection, and the ethical issue of social sorting. It should be noted that the Schengen Borders Code (2006) and the Schengen Handbook (2006)

give detailed regulations for border surveillance along all external borders of the states that apply the Schengen Agreement (1995). In addition, all EU Member States have ratified the Council of Europe Convention of 28 January 1981 for the protection of individuals with regard to automatic processing of personal data (SIS II 2006:19). However, it is important to underline that these requirements were written at a time when biometric technology and EU (biometric) databases were not as common as they are today (Berglund and Karbauskaitė 2008:108). It seems likely that this lack of adequate EU legislation only aggravates ethical, privacy and other human rights issues regarding (irregular) immigrants.

3.3.1 Biometric technologies and bodily integrity

Biometric technology for EU's border surveillance makes use of the human body as a source of information (Dijstelbloem et al. 2011:11). Here, the controversial concept of bodily integrity comes in. The focus on the human body as part of EU border management is often seen as a significant and worrying aspect that should deserve special attention. First and foremost, Alterman (2003:145) states that biometric technology objectifies the body by isolating the physical element from the person. This physical element is subsequently used as a means to an end in which the person has no inherent say or interest. In this way, the body becomes a subject to external controls, while the technological means themselves are removed from the control of the subject (Ibid.). It can be argued that the embodied person is easily transformed in a label with a 'bar code'. The person in question is not only alienated from his or her own body, but also from the technology that is used to recognize his/her body (Ibid.).

Secondly, there is a general consensus among legal experts that the taking of a DNA sample is to be considered a serious breach of the integrity of the body because such searches are not intended to find traces or objects related to a crime. In fact, such body search is mainly carried out to generate information about the identity of the person. According to Van der Ploeg, it is this difference in purpose that renders the taking of a saliva swab to gather identifying data a far more serious breach of integrity than a search of the lower body openings to find smuggled drugs for example (Van der Ploeg 1999 in Lyon 2007:58). From this perspective, the breach of integrity lies in the subsequent use of personal and biometric information. Much of this discussion therefore focuses on database centres: what exactly should be filed and stored, to whom should personal/biometric data be made accessible and for what uses. This will be discussed in section 3.3.3.

3.3.2 Biometric technologies and social sorting

In context of biometric technologies at EU's territorial border, many scholars and human rights organisations argue that these surveillance technologies reinforce social positions, especially positions of marginalised groups such as (irregular) immigrants (Finn and Wright 2012:186). Here, it has often

been argued that there is a link between surveillance technology on the one hand and the freedom of movement and the notion of social sorting on the other (Lyon 2007; Graham and Wood 2003; Finn and McCahill 2013). Finn (2012) explains this relation by pointing out that digitalised surveillance technologies (e.g. iris scans and finger prints in immigration queues and body scans at airports) enable privileged mobility for some individuals while creating restricted mobility for marginalized individuals such as (irregular) immigrants. In this way, surveillance technology in the form of a new European, technological border can be seen as a selection mechanism for ‘newcomers’ (Dijstelbloem et al. 2011:2).

In addition, Wood and Ball (2006:4) argue that the process of social sorting, sifting and categorizing of personal and/or biocentric data can be used as a basis for decisions that can affect the life chances of the subjects of biometric technologies. More specifically, they state that “.. such decisions concern our entitlement and access to benefits, work, products and services and criminal justice; our health and well-being and our movement through public and private spaces” (Ibid.). It can be argued that the last-mentioned consequence of such decisions is in line with the notion of freedom of movement regarding (irregular) immigrants on their way to Europe. According to Wood and Ball (2006:11) the crux of the concern of social sorting is the fact that social sorting is endemic. Once (irregular) immigrants are classified in a certain database, it is difficult for them to “break out of this box” (Ibid.). This ethical dilemma shows that social sorting depends on information that is increasingly gathered by means of biometric technology (Broeders 2007:72). Here, it becomes apparent that EU (biometric) databases also play a crucial role in the practice of social sorting (see section 3.3.3).

Lastly, there also lurks another danger in attributing an identity to a certain person (e.g. in terms of ‘risky’ and ‘not risky’ persons) by means of biometric technology and processing biocentric data in EU databases. As mentioned in the theoretical framework, this practice of social sorting contributes to a situation in which subjects of these surveillance technologies are no longer visible in the European borderscape. Lyon (2007:150) argues: “Biometrics enable fresh forms of exclusion that not only cut off certain targeted groups from social participation but do so in subtle ways that are sometimes scarcely visible”. In other words, the deployment of biometric technologies as a means of EU border management not only touches the greater issue of human dignity, it also entails important socio-political consequences. It creates a situation of ‘politics of forgetting’, a situation in which immigrants (and human rights and ethical issues regarding this group) are left out of the public debate on EU border management.

3.3.3 EU databases, social sorting and privacy issues

In contrast to the increasing level of invisibility of (irregular) immigrants in EU’s borderscape, personal and biocentric data about these immigrants becomes visible in Europe’s databases. Databases

such as EURODAC, VIS and SIS II can be seen as adequate surveillance tools to control, identify and even sort (irregular) immigrants. Alterman (2003:144) points out the ability of these electronic databases to manipulate information; to store information endlessly; to sort information efficiently and to locate information effortlessly. Given the increasing use of biocentric data and the way it can be processed by EU (biocentric) databases, it can be argued that one is justifiably concerned that human privacy may be invaded by these electronic databases. This raises the following privacy issue: what exactly can be filed and stored in these sophisticated EU databases and for what use?

It should be noted that there is an important difference between personal (also called ‘indexical data’) and biocentric data. Whereas the latter refers to representations centred on the body, the first has no internal relation to an embodied person. In the words of Alterman (2003:144): “Indexical data possess no property that are tied to our psychological or physical conception of self”. Whereas most personal data is legally stored in these data systems, biocentric data entails a fundamental privacy concern because it has an impact on one’s right to control the use and disposition of one’s body (Alterman 2003:145). Alterman states that this loss of control over bodily representations shows potentially greater threats to one’s sense of personal security than the release of indexical data. In other words, EU biocentric databases (such as EURODAC and VIS) are the most contested systems because they file and store biocentric data that touches on issues of bodily integrity and privacy. When looking at the use of personal/biocentric data, these high-tech data systems are able to re-identify part of the population of (irregular) immigrants on the basis of their digital traces and biometric information (Broeders 2007:1). This sorting mechanism shows that these databases, in addition to biometric technology itself, can also contribute to the exclusionary practice of social sorting of parts of the (irregular) immigrant population.

Another question scholars raise when focusing on EU data systems is to whom this data should be made accessible? In fact, EU database systems must comply with the rules of their own regulations and the rules of the Data Protection Act (1998). Conversely, it has often been argued that EU database systems pose a serious threat to the right to privacy, especially regarding the issue of data sharing (Hosein 2013:34). In practice, EU database systems are often accused of ‘unprotected data sharing’ with third parties, including EU state authorities (e.g. police forces and border guards) and external agencies such as private security companies (Holmqvist 2005; Vaughan-Williams 2007:69). Wood and Ball (2006:5) confirm this by pointing out the ‘huge stores of personal data held on ‘ordinary people’ that are increasingly central to both public and private agencies. For example, SIS II regularly allows border guards, Interpol, Eurojust and European Police Office (EUROPOL) to access its database regarding asylum claims and transborder crimes (Boer 2002 in Salter 2004:87; SIS II 2006). Another example is the system of EURODAC that makes its data available for comparison by certain ‘designed authorities’ of EU Member States and EUROPOL (EURODAC 2000). In addition, some scholars also point at the worrisome increase of sharing unprotected data with various third parties without adequate control on their use of this personal/biocentric data (Wood and Ball 2006:10).

In general, it should be noted that there is relatively little knowledge about specific public and private agencies where personal/biocentric data exactly goes to and the way these agencies deal with this information (Ibid.). It seems that (personal/biocentric) data sharing among public and private actors (deliberately) remains a grey area that urgently needs further research.

3.4 Biometric (surveillance) technologies outside EU's territorial border

In addition to the deployment of biometric technologies and its use by EU biocentric databases at Europe's territorial border, the use of biometric surveillance technologies outside EU's external border will now briefly be discussed (Dijstelbloem et al. 2011:11). The increasing deployment of biometric surveillance technologies enables EU border authorities in the Mediterranean Sea to directly identify (irregular) immigrants and trace their movements and itineraries towards the European mainland (Lyon 2007). This shows that the deployment of biometric surveillance technologies outside EU's territorial border raises the same kind of human rights and ethical issues as discussed for the use of biometric surveillance technologies at Europe's physical border. An example of this biometric (surveillance) technology is the deployment of satellites with synthetic radar equipment that is able to trace and track (irregular) immigrants on a large scale. Another example is the extension of CCTV systems (video cameras that can produce images or recordings for surveillance purposes) with facial recognition systems that enable automatic signalling of the presence of 'suspect individuals' as they move in the Mediterranean Sea (Ibid.).

Regardless where biometric surveillance technology is implemented, it remains difficult and even impossible for the already marginalized (irregular) immigrants to discover what happens with their personal information, who handles it, when and for what purposes (Wood and Ball 2006:14). In addition, Brouwer (2005:230) states that the deployment of biometric surveillance technology creates a situation in which individuals and groups are constantly monitored without their knowledge. Therefore, he argues that it becomes more important that individuals who face negative consequences of 'data surveillance' have the right to access to courts, regardless their nationality or legal status.

This chapter has shown that the external borders of the EU, both the territorial and the maritime borders, have become a site of major human rights and ethical challenges. It has been argued that the tendencies of externalization, privatization and militarization all contribute to a technical and quasi-military approach of EU border management where human rights and ethical issues are often unaddressed. It has been argued that these tendencies not only violate universal fundamental human rights, but also touch on the greater issue of human dignity (in terms of bodily integrity, social sorting and personal data protection). In this chapter, it has become apparent that there is a constant tension between the need to manage flows of (irregular) immigration on the one hand and to safeguard immigrant's rights on the other (Carling and Hernández-Carretero 2011:43). Border crossers and

border authorities find themselves in a mutually reinforcing vicious circle in which already marginalized (irregular) immigrants seem to suffer most.

Against the backdrop of this vicious cycle, it can be argued that the way biometric surveillance technologies violate the position and human rights of (irregular) immigrants is often overshadowed by EU's focus on these technologies as a 'necessary means' to manage its maritime and territorial borders. In this way, alarming human rights and ethical consequences for (irregular) immigrants, that have been discussed in this chapter, become more and more invisible in the European debate on EU border management. This is a worrisome development because it means that the already complex and often uncontrollable character of EU border management becomes even more uncontrollable. In other words, it is a development of which the (irregular) immigrant population pays the highest price. Therefore, new regulations and rights need to be formulated and observed to protect immigrant's privacy and other human rights issues (Broeders 2007:73; Dijkstra et al. 2011:4).

4. The cloak of EU's official policy language

“In the EU, there seems to be a growing belief that security problems are best resolved by technical solutions”

(Barnard-Wills 2013:180)

In the past decades, (irregular) immigration from Africa to Europe has developed in a security issue in Western Europe (Huysmans 2000:752). This tendency is not only magnified in the media, in public discourses and in the academic field, but it is also translated in a range of European policy measures (since the early 1990s) to manage immigration flows into European territory (Guiraudon 2000 in Martiniello et al. 2010:145). Despite the fact that the foundation for a comprehensive EU immigration policy has already been laid down, the EU is still far away from officially adopting a common immigration policy.¹³ In the face of both the Commission's interest to develop such an overarching policy and the persistent challenge of border management and flows of (irregular) immigration, these issues will remain a hot political topic on the European agenda in the years to come.

Throughout this chapter, the term ‘EU immigration policy’ will be used when referring to the following EU immigration policy documents: the Tampere Programme (1999)¹⁴, the Hague Programme (2005)¹⁵, the Communication on Policy priorities in the fight against Irregular Immigration of Third Country Nationals (2006)¹⁶, the Proposal for a Regulation Creating Rapid Border Intervention Teams (2006)¹⁷, the Communication on A Common Immigration Policy for

¹³ The main foundation of EU's common immigration policy is the ‘Communication of June 2008 on A Common Immigration Policy for Europe: principles, actions and tools’. This communication has put forward 10 common principles with concrete actions for their implementation, on the basis of which the common European immigration policy will eventually be formulated. In order to attain a coordinated and integrated approach to immigration, these principles are mainstreamed under the three main strands of EU's policy: prosperity, solidarity and security.

¹⁴ At Tampere, EU authorities looked at all aspects of justice and home affairs to highlight the priorities that would define their action at a European level. The conclusions of the special European Council of Tampere identify the making of the EU into an area of freedom, security and justice as a top priority. The main themes covered by the EU Tampere summit were: a common EU asylum and migration policy; a genuine European area of justice; a union wide fight against crime and stronger external action (i.e. outside the EU).

¹⁵ The multiannual Hague Programme, adopted at the European Council of 4 and 5 November 2004, sets out 10 priorities for the Union with a view to strengthening the area of freedom, security and justice in the period 2004-2009.

¹⁶ This Communication presents possible solutions and measures for the priority areas of EU policy on combating illegal immigration. The priority areas are: cooperation with non-EU countries, border security, integrated management of external borders, secure travel and identity documents, the fight against trafficking in human beings, regularisation of the status of non-EU nationals in irregular situations, combating illegal employment, return policy, improving the exchange of information using existing instruments and carriers' liability.

¹⁷ This Regulation has set up a system providing enhanced technical and operational assistance for a limited period, in the form of rapid-reaction intervention teams, including guards from other Member States. These teams should intervene at the request of any Member State faced with urgent and exceptional situations resulting from a ‘mass influx of illegal immigrants.

Europe (2008)¹⁸, the Stockholm Programme (2009) and the Action Plan of implementing the Stockholm Programme (2010).¹⁹ The content of these founding documents reflects discussions among the Commission, the Parliament, the Council, Member States and stakeholders between 1999 and 2008. In this chapter, the regulations of some of the previously discussed EU surveillance programmes - EUROSUR, EURODAC, SIS II and VIS – will also be discussed.²⁰ These regulations can be seen as expressions of EU's immigration policy, which makes them relevant to include in this chapter. Although this analysis is limited in scope and only refers to a selection of key documents, it does give important insights into the way topics such as (irregular) immigration, surveillance technology and issues of human rights are addressed in EU's immigration policy. This chapter will especially focus on the way(s) (irregular) immigration is framed because it will show how the deployment of surveillance technology for EU border management is legitimized within EU's immigration policy framework.

Benford and Snow's (2000) concept of framing will provide a useful tool to lay bare and understand the way in which the issue of (irregular) immigration and the use of surveillance technology are framed in EU's immigration policy. Some scholars argue that framing serves several functions. It can determine how people notice, understand, evaluate and decide on problems; it can give meaning to life and all its actions in relation to its environment and most important for this chapter, it can legitimize one's actions (Kahneman and Tversky 1981; Benford and Snow 2000:137). Benford and Snow (2000: 615) state that there are different subdivisions in theorizing framing and distinguish three frames: diagnostic, motivational and prognostic frames. From the perspective of prognostic framing, the frame articulator comes up with a proposed way to deal with a certain problem (Benford and Snow 2000:617). This chapter will show that EU's immigration policy contains a prognostic frame in which technologies of surveillance are portrayed as a necessary means to manage EU's external borders and flows of (irregular) immigrants to Europe.

4.1 The security logic

Based on the way the EU immigration policy has evolved between 1999 and 2008, it can be stated that it increasingly consists of technology measures (Dijstelbloem et al. 2011:2). In line with Hayes and Vermeulen (2012), technology and its suppliers play an important role in EU's immigration policy. Throughout all analyzed EU documents, new technology is not only highly prioritized, but also positively valued (Barnard-Wills 2013:176). For instance, in Article 5 of the Action Plan of

¹⁸ See footnote 15.

¹⁹ The Stockholm programme, adopted by the European Council in December 2009, sets the priorities for developing the European area of freedom, security and justice in the next five years. The aim of the Action Plan of implementing the Stockholm Programme is to deliver these priorities of the Stockholm Programme.

²⁰ Regulations of SIVE, Hera II and CLOSEYE are not available and therefore they are not included in this documentation analysis. However, the regulation of EUROSUR can be seen as indicator of the regulations of SIVE, Hera II and CLOSEYE since they are all EU surveillance programmes with many shared objectives.

implementing the Stockholm Programme (2010:7), modern technologies of EU border management are described as “measures that effectively contribute to Europe’s prosperity and growth” and as “measures to ensure the feeling of security of the Union’s citizens”. In these policy documents, the term ‘modern technology’ refers to surveillance programmes and the deployment of surveillance technology for EU border management. For instance, in 2006, the Commission issued two policy documents that were both focused on short-term surveillance orientated policies (Communication on Policy Priorities in the fight against Irregular Immigration of Third Country Nationals 2006; Proposal for a Regulation Creating Rapid Border Intervention Teams 2006). The emphasis on surveillance programmes and technologies of surveillance is also reflected in the Action Plan of implementing the Stockholm Programme (2010:6), which states that “high tech EU database systems SIS II and VIS will continue to be a high priority for the EU”.

In addition to the increasing role of technology, the documentation analysis has shown that there are three underlying policy narratives within EU’s immigration policy framework, centered on security, co-operation (with relevant third countries) and the protection of (irregular) immigrants (Carling and Hernández-Carretero 2011:42). Although all narratives are recurring and important elements of EU’s immigration policy, this chapter will mainly focus on the security-narrative since this one is most present in the analyzed EU documents. Based on the documentation and literature analysis, it can be stated that the dominant approach to (irregular) immigration is broadly framed in terms of security and addressed through security measures (Guiraudon 2000; Lohrmann 2000; Huysmans 2000; Collyer 2006; Van Munster and Sterkx 2006; Carling and Hernández-Carretero 2011; Carling 2011). In other words, the deployment of new surveillance technology is coated in EU’s official policy language, in terms of the security and protection of Europe.

This security frame, also called ‘security logic’, first raises the question: who or what is seen to threaten Europe? Based on the ‘security-terminology’ of the analyzed EU policy documents, (irregular) immigrants are often portrayed as posing a ‘security threat’ to Europe. For instance, in the Communication on a Common Immigration Policy for Europe (2008), notions of “strengthening the integrated management of external borders and policies on border controls” are frequently linked to the issue of (irregular) immigration and “the prevention of other safety and security related threats”. It can be argued that the use of the word ‘other’ implies that (irregular) immigration is also portrayed as a security threat. Another example of this particular way of framing is the following sentence in the Proposal for Rapid Border Intervention Teams (2006:30): “Effective management of the external borders through checks and surveillance helps to combat illegal immigration and trafficking in human beings and to prevent any threat to the internal security, public policy, public health and international relations of the Member States”.

Without going further into the discursive process of constructing (irregular) immigration as a security issue, it can be argued that this social construction has led to the process of securitization of (irregular) immigrants (Huysmans 2000:758). As mentioned in the theoretical framework, the

articulation of a certain threat implies that there is a ‘valued referent object’ that is threatened (Copenhagen School 1998 in Emmers 2007). This raises the question: what exactly in Europe is threatened within this policy framework? Based on the documentation analysis, the notion of Europe as being threatened mainly refers to the well-being and security of its citizens. This can be illustrated with the title of the first objective of the Action Plan of implementing the Stockholm Programme (2010:3) ‘*Delivering an area of freedom, security and justice for Europe's citizens*’ and its content: “In a period of change, as the world only starts to emerge from the economic and financial crisis, the European Union has more than ever the duty to protect and project our values and to defend our interests. Women and men in Europe rightly expect to live in a peaceful and prosperous Union confident that their rights are fully respected and their security provided”. In other words, the notion of (irregular) immigration as a security threat to the protection of Europe and its citizens reflects the theoretical concept of securitization. This argument is in line with many scholars who state that a securitization trend is visible in EU’s immigration policy (Huysmans 2000, 2006; Guild 2003a, 2003b, 2003c; Pellerin 2005; Colman 2006; Chebel d’Apollonia and Reich 2008; van Munster 2009 in Léonard 2010:2). Some of them even argue that this trend shapes EU’s immigration policy for a number of years now

4.1.1 Surveillance technology as a necessary tool to protect Europe and its citizens

As previously mentioned, prognostic framing goes hand in hand with a proposed way of dealing with a certain problem (Benford and Snow 2000:617). The frequent use of the term ‘border control’ as a ‘necessary way of dealing with the problem of (irregular) immigration’ throughout EU’s policy documents is in line with this theoretical perspective (Carling and Hernández-Carretero 2011:52). In other words, the practice of framing technologies of surveillance as the most appropriate tool to ‘protect Europe against flows of (irregular) immigration’ shows the way these documents try to legitimize the deployment of new surveillance technology for EU border management. This argument is in line with scholars such as Buzan et al. (1998), Huysmans (2000), Buonfino (2004) and Duffield (2008) who state that securitization can contribute to the justification of the containment and control of flows of (irregular) immigration. From this perspective, it can be argued that the security logic of EU’s immigration policy is used to legitimize the increasing deployment of surveillance technology (technologies of power) as a practice to manage EU’s external borders and flows of (irregular) immigration (containment).

In addition to EU authorities, private security companies also securitize the issue of (irregular) immigration. However, these companies securitize for another purpose than EU authorities: to gain more profit and to encourage the Commission to buy new technologies of surveillance from them (Gammeltoft-Hansen 2008:161). Gammeltoft-Hansen argues the following: “By framing immigration flows as a mounting threat to Europe against which only the defence and security industry can supply

the technological solutions, the PSCs are effectively making insecure audiences of governments and EU institutions” (Ibid.). In other words, he argues that the ‘securitization-terminology’ of PSCs aims to make EU authorities more dependent on them, which strengthens their position. Regardless of the securitizing actor (PSCs or EU authorities), the security frame has been ‘so successful’ that it has obtained the status of common sense as Huysmans argues (2000:758). Based on the observation that (irregular) immigration and the notion of the protection of Europe and its citizens are invariably presented as being related to each other in the analyzed EU documents, it can be stated that the securitization of (irregular) immigration is normalised within EU’s immigration policy framework.

4.1.2 EU’s securitization-terminology

According to the framing theory of Benford and Snow, language is an important aspect of the practice of framing because it functions to ‘justify and normalize’. In line with this perspective, it can be argued that the securitization-terminology contributes to the legitimization of the deployment of new surveillance technology within EU’s immigration policy framework. This section will discuss a few terms that are used in the analyzed EU documents, in order to illustrate the security-terminology.

Firstly, (irregular) immigration is not only portrayed as a ‘security threat’, but also as a ‘risk’ and as ‘potentially dangerous’ (Carling and Hernández-Carretero 2011:52; Samers 2004). For example, on the website of Frontex’ surveillance project CLOSEYE, surveillance technology is presented as ‘the solution for upcoming security threats and risks’ (Statewatch 2013). Secondly, all analyzed policy documents contain the terms ‘combating’ immigration and ‘the fight’ against (irregular) migration of third country nationals. Both terms are ‘war metaphors’ that imply the notion of (irregular) immigration as a threat that should be defeated or as a ‘battle’ that needs to be fought. Another example of the second war metaphor is the third pillar of the Communication on a Common Immigration Policy for Europe (2008): ‘*Security: effective fight against illegal immigration*’. The main chapter of this pillar, ‘*Stepping up the fight against illegal immigration and zero tolerance for trafficking in human beings*’, touches on two other aspects of EU’s security-terminology: the use of the term ‘illegal’ immigration and the categorization of (irregular) immigration with the illegal practice of human trafficking.²¹ These aspects of the security-terminology imply the notion of immigration as an illegal phenomenon that should be countered to protect Europe and its citizens. The fact that the increased deployment of surveillance technology for EU border management has resulted in higher levels of dependency on human traffickers makes this categorization ironic. In addition,

²¹ Groups of immigrants are very often mixed in the sense that they consist of different people with different motives to leave their country (Di Filippo 2013:56). For instance, it is not illegal if immigrants (try to) enter European territory when there is a well-founded need for international protection (either from the departure state or their own state). Therefore, it can be argued that the use of the term ‘illegal’ immigration is inappropriate as a general label for the flows of (irregular) immigrants to Europe (Carling 2011:43).

(irregular) immigration is also categorized with other issues such as weapons, terrorists, piracy, drug smuggling, illegal activities, cross-border crime and other potential threats (Berizzi et al. 2011:2; Lohrmann 2000:8; Koslowski 2001; Léonard 2010; Carling and Hernández-Carretero 2011:44; Stockholm Programme 2009; both EU reports 2006; Communication on a Common Immigration Policy for Europe 2008).

Fifthly, there is a widespread use of the term ‘intelligence’ (and ‘intelligence-led border management’) in both EU’s policy documents and in the regulations of its surveillance programmes, especially in the regulation of EUROSUR (2013). These documents frequently link the issue of (irregular) immigration with intelligence activities such as the introduction of the ‘pre-frontier intelligence picture’ (EUROSUR 2013; Barnard-Wills 2013:175). Given the fact that intelligence traditionally refers to information about security threats, it can be argued that the frequent use of this term is an important mechanism of EU’s securitization-terminology (Gill and Phythian 2006:1 in Léonard 2010:242). Lastly, the issue of (irregular) immigration is constantly linked to the term ‘border control’, which implies the notion that flows of (irregular) immigrants should be controlled (Guiraudon and Lahav 2006:5). This notion, in turn, implies the image of (irregular) immigration as a security threat to Europe and its citizens. Moreover, the use of the term ‘control’ is in line with Duffield’s theoretical concept of containment since both notions imply the need to regulate/discipline people (Duffield 2008:146). It is remarkable that both the Tampere Programme (1999) and the Hague programme (2005) contain the terms ‘management of immigration flows’ and ‘EU border management’, while more recent EU documents (such as the Communication on Policy Priorities in the fight against Irregular Immigration of Third Country Nationals 2006, the Proposal for a Regulation Creating Rapid Border Intervention Teams 2006 and the Stockholm programme in 2009) use the term ‘border control’. Despite the limited nature of the analysis, this finding confirms the claim of many scholars that a securitization trend has become visible in EU’s immigration policy in the past few years.

4.2 Surveillance technology as a live saving instrument

In addition to the security-narrative in terms of the protection of Europe, EU’s policy documents reflect the narrative of the ‘protection of migrants’ that refers to the security of (irregular) immigrants. Whereas Carling and Hernández-Carretero make a distinction between these narratives, this thesis refers to these narratives as the ambiguous character of security. In line with the security narrative, it the ‘protection of migrants’ narrative (also called the humanitarian narrative) is also used as a rhetorical tool to legitimize the deployment of new surveillance technology for EU border management (Carling and Hernández-Carretero 2011:45). In other words, the narrative of surveillance technology as a live saving instrument is strategically used to justify the deployment of technologies of surveillance to primarily prevent, early detect and control flows (irregular) immigration to Europe at

an earlier stage (Carling and Hernández-Carretero 2011:52).

An example of this strategic way of framing is the way potential drones and their capacities are presented “as live saving instruments to protect and rescue (irregular) immigrants who try to cross the Mediterranean Sea and thus for humanitarian use” (Hayes et al. 2014:73). Hayes et al. criticize this particular way of framing and claim that EU’s border agency Frontex will primarily use drone technology to improve their capacity to trace and track small vessels that are being used for (irregular) immigration. Another example of the ‘protection of migrants’ narrative is the fact that the official descriptions of EU’s surveillance programmes EUROSUR, SIVE, CLOSEYE and Frontex’ HERA operations all emphasize the humanitarian role of their means and technologies of border management (Carling and Hernández-Carretero 2011:56). For example, EUROSUR recently presented its primary objective: “to prevent illegal immigration off Europe’s southern coasts and to save refugees in maritime distress” (Hayes et al. 2014; EUROSUR 2013).

However, it is remarkable that the initial purpose of EUROSUR was not to rescue shipwrecks victims, but “to secure EU’s external borders and to counter illegal immigration and smuggling” (EUROSUR 2011; Hunko et al. 2014). EU’s rebranding of its programme objective in the wake of hundreds of drowning fatalities off Lampedusa in March 2012 seems primarily a strategic move. Ska Keller, a Green Party member of the EP argued in October 2013: “EUROSUR is to serve the battle against illegal migration. It’s not at all for rescue operations, as is now being portrayed” (Berger 2013). This deliberate change of objective shows that the humanitarian narrative should be questioned rather than taken for granted. Furthermore, the legislative underpinning of EUROSUR regarding the use of surveillance technology contains no obligation to take measures in order to save (irregular) immigrants once a vessel in danger has been detected (Hunko et al. 2014:9). Although EUROSUR can clearly help to bring more people to ‘safety’, nowhere in its regulation is defined how exactly this should be done. Based on the literature and documentation analysis, it can be stated that the regulations of EU’s surveillance programmes all reflect a humanitarian narrative, while in practice the migrant’s saving objective seems subordinated to EU’s primary objectives: prevention, early detection and control of (irregular) immigrants in Europe’s pre-frontier sea area. In line with the visibility of the humanitarian narrative in the analyzed EU documents, fundamental rights issues also play a central role in these documents.

4.3 Attention for human rights issues

“Respect for the human person and human dignity, freedom, equality, and solidarity are our everlasting values at a time of unrelenting societal and technological change. These values must therefore be at the heart of our endeavours”

(Action Plan of implementing the Stockholm Programme 2010:2)

In all analyzed EU documents, privacy issues and the protection of (irregular) immigrants are presented as fundamental human rights, frequently cited as “being at the heart of EU’s response to (irregular) immigration issues” (Action Plan of implementing the Stockholm Programme 2010:3). Although chapter 3 has shown that EU’s main objectives are at odds with certain human rights issues, EU policy documents clearly link the deployment of surveillance technology and EU’s normative commitment to protect human rights (Communication on Policy Priorities in the fight against Irregular Immigration of Third Country Nationals 2006; Proposal for a Regulation Creating Rapid Border Intervention Teams 2006; Action Plan of implementing the Stockholm Programme 2010; EUROSUR 2013; Barnard-Wills 2013). The term ‘harmonization’ is often used when pointing at EU’s priority to combine the deployment of surveillance measures on the one hand and compliance with human rights on the other (Ibid.). For instance, Article 13 of the regulation of EUROSUR includes data protection requirements and regulations on the processing and exchange of personal data regarding the deployment of European situational pictures and the common pre-frontier intelligence picture. Another example of ‘harmonization’ can be found in EU’s Communication on Policy priorities in the fight against Irregular Immigration of Third Country Nationals (2006): “Biometric technology will have a significant impact on border control systems. The potential of this technology should be exploited to enhance the effectiveness of border control operations, while taking into account ethical concerns and the protection of fundamental rights”.

In terms of fundamental human rights, the privacy issues of personal data protection and data sharing are most visible in EU’s policy documents and in the regulations of EU database systems EURODAC, SIS II and VIS. For instance, the Action Plan of implementing the Stockholm Programme contains the following provision: “In a global society characterised by rapid technological change where information exchange knows no borders, it is particularly important that privacy must be preserved. The Union must ensure that the fundamental right to data protection is consistently applied. We need to strengthen the EU’s stance in protecting the personal data of the individual in the context of all EU policies”. It should be noted that the same kind of privacy issues (mainly personal data protection and data sharing) are addressed in the same normative way (EURODAC 2000; SIS II 2006; VIS 2008). For instance, all these regulations contain chapters on general data processing rules (including articles on the purpose of information and recording of data), the right to personal data protection (including articles on the responsibility for data use, data storage, the retention period of personal information and supervision on data protection), data sharing (including articles on the access of stored data and information exchange) and liability (in which EU Member States are responsible for the damage suffered by any person) (EURODAC 2000; SIS II 2006; VIS 2008). It is remarkable that information exchange is not only presented as a violation of EU’s data protection law, but also as a means that can contribute to the security of Europe (EURODAC 2000; SIS II 2006.; Barnard-Wills

2013:180).²²

Based on the here presented documentation analysis, there is a security-oriented European immigration policy that increasingly emphasizes of the deployment of surveillance technology. This chapter has shown that both the security and the humanitarian narrative contribute to the legitimization of the increasing deployment of surveillance technology as means of EU border management. This is in line with the biopolitical argument that securitization can contribute to the justification of technologies of power and thus containment. Based on the security logic and the security-terminology of the analyzed EU documents and regulations, this argument can be taken a step further.

Securitization is not only a means to legitimize technologies of power, but it is also a technology of power in itself. The security-terminology of Europe's immigration policy in fact also aims to manage the circulation of (irregular) immigrants.

In addition to this theoretical insight, this chapter has shown that privacy issues are presented as being at the heart of EU's approach of border management, while EU policy documents and regulations do not include specific implementation plans to comply with and monitor these rights in practice. Based on the literature and documentation analysis, it can be concluded that the ambiguous notion of security and the clear visibility of privacy issues within EU's immigration policy framework can rather be seen as a cloak to cover the increasing deployment of surveillance technology for EU border management. The fact that the deployment of surveillance technology as a means of EU border management is at odds with certain human rights issues seems to be the reason for this cloaking. All in all, the issue of (irregular) immigration remains a difficult policy area in which actual, normative and strategic priorities go hand in hand to meet the objectives of the EU and the challenges of today and the years to come (Carling and Hernández-Carretero 2011:56).

²² For instance, under the heading 'Improving exchange of information through existing instruments', information exchange is presented as one of the policy priorities in the Communication on Policy priorities in the fight against Irregular Immigration of Third Country Nationals (2006).

5. Conclusion

This thesis has attempted to describe and understand the way the EU uses and legitimizes new technologies of surveillance as a means to manage its external borders and flows of (irregular) immigrants from Morocco to Spain. As each chapter has demonstrated, there is a tension between the protection of Europe, its citizens and its external borders on the one hand and the protection of (irregular) immigrants on the other. This thesis has examined how public institutions/agencies and private companies put surveillance technology to practice, the social implications and the socio-political consequences for (irregular) immigrants of this new architecture of EU border management and the way the EU legitimizes its deployment of new surveillance technology as a means of EU border management. Each chapter has focused on one of these issues in order to analyse the changing character of EU border politics from a biopolitical perspective.

Chapter 2 has shown that there is a constant negotiation and thus a blurred line between public and private actors regarding the deployment of surveillance technology as a means of border management in the maritime area between Morocco and Spain. Although the public and the private sector have the same objectives, it seems that both networks have different priorities: prevention, early detection and control of (irregular) immigrants versus generating profits. It has been argued that both priorities focus on the use of surveillance technology which largely overshadows the human aspect of European border management. In the words of Duffield, this indicates that containment has not only deepened, but also extended to constitute a ‘virtual global ban’ on flows of irregular and non-managed immigration outside the territorial borders of Europe. Secondly, it has been argued that the lack of availability of data on the increasing involvement and specific contributions of PSCs in EU surveillance programmes can in fact be seen as an important finding in itself. It seems a strategic move of the private security industry to keep its business and involvement in certain practices of EU border management out of the public debate. Thirdly, it has been argued that the externalization-privatization-militarization nexus clearly shows the way technologies of surveillance are brought to practice in order to manage EU’s external borders. These interrelated tendencies contribute to a situation in which both public and private border actors can deal with the issue of (irregular) immigration in quite an unobserved manner. In this way, the issue of (irregular) immigration gradually shifts to the background of the European public debate and changes into a political ‘non-issue’. The changing character of EU border management not only reflects the theoretical concept of containment, it also entails social implications and socio-political consequences for the already marginalized (irregular) immigrant population.

The third chapter focused on these consequences by looking at several ways the deployment of new technologies of surveillance as a means of border management relates to important human rights issues. First of all, it has been argued that externalized Frontex operations not only touch on the

fundamental right to leave any country, they also lead to the denial of the rights obtained at the European border: the possibility to seek asylum and to appeal refusal of entry. Secondly, it has been concluded that the alarming vicious cycle in which (irregular) immigrants and EU (border) authorities play a cat and mouse game leads to more surveillance initiatives and stricter border controls on the side of the EU and an increasing number of casualties on the side of the (irregular) immigrant population, due to alternative and more dangerous routes and a higher level of dependency on human traffickers. Thirdly, the deployment of new surveillance technology (such as biometric technology and high-tech database systems) is mainly criticized from a privacy perspective, pointing out the practice of social sorting, the notion of bodily integrity and the issue of unprotected personal data sharing. It has been argued that these alarming fundamental human rights questions touch on the greater issue of human dignity: the core of the matter that is often overshadowed in the current political debate on the management of Europe's external borders.

While little attention is paid to human rights and privacy issues of (irregular) immigrants in the public debate, these concerns are however omnipresent within EU's immigration policy framework. In chapter 4, the security logic of EU immigration policy documents and the related process of legitimizing surveillance technology as a means of EU border management have been discussed. Based on the explorative documentation analysis of the security-oriented European immigration policy, it can be stated that the issue of security plays a significant and ambiguous role in EU's policy documents. The issue of (irregular) immigration is primarily framed as a security threat to the protection of Europe and its citizens ('security narrative'), but also in terms of the protection of (irregular) immigrants who try to cross the Mediterranean Sea ('humanitarian narrative'). This ambiguous notion of security reflects the underlying tension of this thesis: the protection of Europe and its citizens versus the protection of (irregular) immigrants. It has been argued that both notions of security legitimize the deployment of surveillance technology as a means of EU border management. This argument clearly reflects Duffield's notion of the way western politicians portray (irregular) immigration as a locus of threat to the security of the global north as a means to legitimize technologies of containment. From this theoretical perspective, Europe's immigration policy can be seen as a 'policy of containment'.

In addition, it is striking that human rights and especially privacy issues (such as personal data protection and data sharing) are explicitly mentioned and presented as being at the heart of EU's immigration approach in the analyzed EU policy documents and in the regulations of its surveillance programmes. Despite the fact that these policy outlines properly include fundamental human rights, it remains unclear how these rights should be respected and monitored in practice. This raises the question whether these fundamental rights issues are actual, normative or strategic priorities of the Union. Chapter 4 has shown that the omnipresence of human rights issues and the ambiguous notion of security within EU's policy framework can be seen as a cloak of EU's official policy language to cover its priority of deploying surveillance technology in the dynamic European borderland.

5.1 Theoretical insights

This thesis has used a biopolitical framework to study the current shift towards a technological and remote way of EU border management and the way the security-oriented European immigration policy legitimizes the deployment of surveillance technology by portraying it as a necessary means for the security of both Europe (and its citizens) and (irregular) immigrants. Duffield's words become relevant here: biopolitics functions in the interest of security. What if we turn these words around? The notion of security functions in the interest of biopolitics. It has been argued that the ambiguous notion of security and the central place of human rights within EU's immigration policy framework serve as a strategic mechanism to cover Europe's increasing use of surveillance technology to manage its external borders and the issue of (irregular) immigration. From this perspective, this thesis contributes to a new understanding of securitization: not only as a means to legitimize technologies of power, but also as a technology of power in itself. The security-terminology of Europe's immigration policy in fact also aims to manage the circulation of (irregular) immigrants. Although this argument can be seen as a matter of interpretation, it provides a useful insight when studying EU border politics and the issue of (irregular) immigration to Europe.

This thesis has provided another theoretical insight regarding the emerging private security industry and the concept of public-private partnerships. This thesis has shown that there is a range of European institutions, agencies and projects within the larger body of the EU that is involved in practices of EU border management in multifarious ways. In addition, it has been argued that private companies do not only collaborate with public actors, but that joint ventures and subcontracting among PSCs also play an important role in EU border politics. In contrast to the argument of Steden and Sarre, these findings show the heterogeneous character of this industry, with different fields of expertise. When studying the concept of public-private partnerships, there should not only be a focus on the interaction between the public and the private network, but also on the complex character of both sectors because this clearly influences the public-private relationship.

Lastly, based on the analysis of this thesis, it has been argued that the tendencies of externalization, privatization and militarization reinforce each other, all contributing to a technical and quasi-military approach of EU border management in which there is little room for the human aspect of border politics. Therefore, this thesis has brought forward the newly formulated theoretical notion of the externalization-privatization-military nexus. Drawing on this nexus, international migration studies should study these theoretical notions in an integrated way by taking into account the aspects of all these tendencies.

5.2 Out of sight, out of mind

Given the arguments put forward, it can be concluded that the current way the EU deploys surveillance technology as a means of EU border management and the manner in which these modern border technologies are legitimized within EU's immigration policy framework entail social implications and socio-political consequences for (irregular) immigrants. In other words, the rapidly-changing character of EU border management and the complex European borderscape have created a situation in which the designers of the new border management architecture and especially the already marginalized group of (irregular) immigrants gradually become 'invisible' in the European public debate. An old Dutch saying can be applied here: "out of sight, out of mind".

This thesis not only aims to shed light on the alarming social implications and the socio-political consequences for (irregular) immigrants of the current way of EU border management, it also urgently calls for further research into the actual involvement of private security companies, the way they interact with each other and with European institutions/agencies and their activities of border management in the Mediterranean Sea. Without a comprehensive picture of the complex and uncontrollable character of the new architecture of the European borderscape, one cannot work on a more realistic approach of the issue of (irregular) immigration that respects the fundamental rights of these immigrants. When the pressing issue of (irregular) immigration disappears in the 'politics of forgetting', it becomes a persistent phenomenon of our time, instead of a problem that should be solved or a challenge that should be managed.

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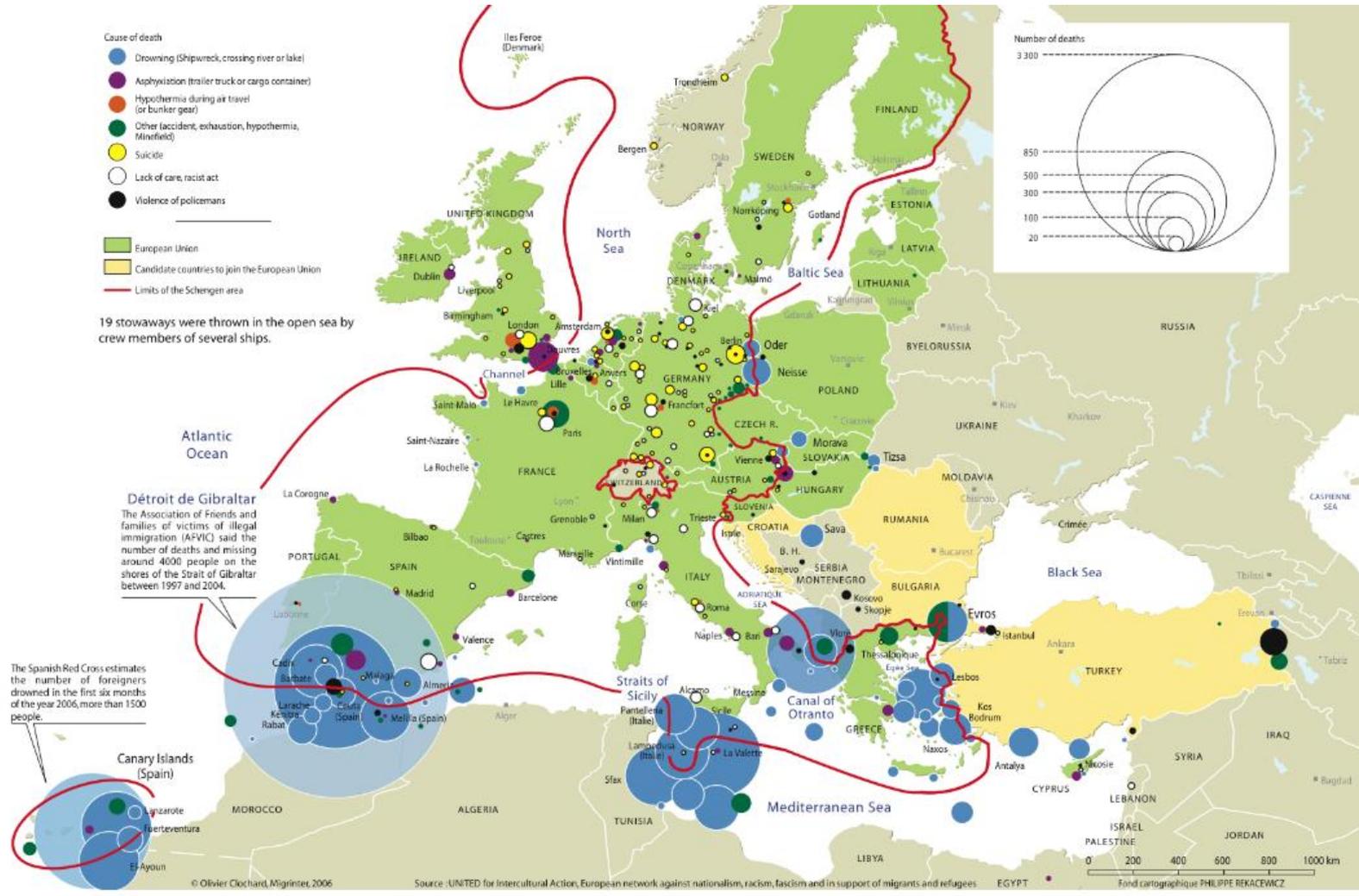
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All online sources have been checked for availability on 13 August 2014, prior to thesis submission.

Appendices

Appendix 1: Map of 'The deaths of Fortress Europe' (1997-2004)



UNITED for Intercultural Action (2006)

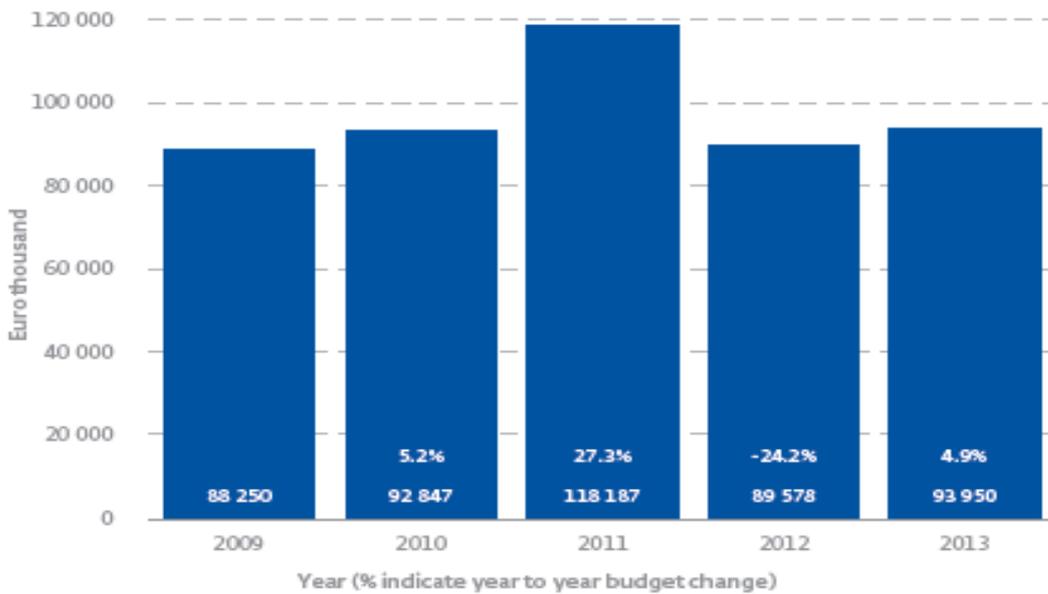
Appendix II: Frontex budget developments (2006-2013)

Budget development.



Frontex General Report (2011)

Figure 1 Budget developments 2009-2013



Frontex General Report (2013)

Appendix III: Contribution of the Commission to Frontex (2009-2013)

| Year | Total funding Frontex | EC subsidiary | EC contribution, expressed in percentages |
|-------------|------------------------------|----------------------|--|
| 2009 | 88.250.000 | 85.000.000 | 96.3% |
| 2010 | 92.847.000 | 83.000.000 | 89.4% |
| 2011 | 118.187.000 | 111.000.000 | 93.9% |
| 2012 | 89.578.000 | 84.000.000 | 93.8% |
| 2013 | 93.940.000 | 87.400.000 | 93.0% |

Appendix V: Final budget distribution of Frontex (2013)

Annex I. Appropriations 2013

| Budget Item (amounts in EUR 1 000) | Original Budget 2013 | Amended Budget 2013 ¹ | Transfer of appropriations | | Available appropriations | Commitments | | Payments | | To be Carried Forward | | | | | | |
|--|----------------------------|--|-------------------------------|------------------|-----------------------------|---------------|------------|---------------|------------|-----------------------|-----------|-------------------|---------------|------------------|--------------|-----------|
| | | | | | | | | | | (C) ² | (C5) | (C8) ³ | Total | Unused | | |
| | (A) | (B) | (c) | (d) ⁴ | (e) | (e)/(d) | (F) | (F)/(d) | (G) | (H) | (I) | (I)-(G)+(H) | (I)/(e) | (J) ⁴ | | |
| Title 1 Staff | 21 641 | 0 | 621 | 3% | 22 262 | 20 458 | 92% | 20 321 | 91% | 0 | 0 | 138 | 138 | 1% | 1 804 | 8% |
| Title 2 Other Administrative | 9 758 | 0 | -621 | -6% | 9 137 | 8 949 | 98% | 6 551 | 72% | 0 | 4 | 2 398 | 2 402 | 26% | 188 | 2% |
| Title 3 Operational Activities | 54 308 | 8 243 | 0 | 0% | 62 551 | 62 431 | 100% | 33 242 | 53% | 0 | 14 | 29 210 | 29 224 | 47% | 119 | 0% |
| Grand total regular budget | 85707 | 8 243 | 0 | | 93 950 | 91 839 | 98% | 96 014 | 64% | 0 | 18 | 31 746 | 31 746 | 34% | 2 111 | 2% |
| Breakdown of appropriation in Title 3 | | | | | | | | | | | | | | | | |
| 30 Operations | 41 739 | 7 493 | -2 100 | -5% | 47 132 | 47 129 | 100% | 25 876 | 55% | 0 | 11 | 21 269 | 21 281 | 45% | 3 | 0% |
| 3000 Land Borders | 9 400 | 0 | -1 758 | -19% | 7 642 | 7 642 | 100% | 4 927 | 64% | 0 | 2 | 2 720 | 2 721 | 36% | 0 | 0% |
| 3010 Sea borders | 20 050 | 7 493 | 1 342 | 7% | 28 885 | 28 885 | 100% | 13 290 | 46% | 0 | 10 | 15 606 | 15 615 | 54% | 0 | 0% |
| 3020 Air borders | 2 289 | 0 | -34 | -1% | 2 255 | 2 252 | 100% | 1 499 | 66% | 0 | 0 | 754 | 754 | 33% | 3 | 0% |
| 3050 Return co-operation | 10 000 | 0 | -1 650 | -17% | 8 350 | 8 350 | 100% | 6 160 | 74% | 0 | 0 | 2 190 | 2 190 | 26% | 0 | 0% |
| 310 Risk analysis | 1 445 | 0 | -400 | -28% | 1 045 | 1 038 | 99% | 793 | 76% | 0 | 0 | 246 | 246 | 24% | 7 | 1% |
| 311 Frontex Situation Centre | 1 380 | 750 | 2 340 | 170% | 4 470 | 4 469 | 100% | 1 603 | 36% | 0 | 0 | 2 867 | 2 867 | 64% | 1 | 0% |
| 320 Training | 4 500 | 0 | 465 | 10% | 4 965 | 4 965 | 100% | 3 167 | 64% | 0 | 0 | 1 801 | 1 801 | 36% | 0 | 0% |
| 330 Research & Development | 1 200 | 0 | -330 | -28% | 870 | 832 | 96% | 428 | 49% | 0 | 0 | 404 | 404 | 46% | 38 | 4% |
| 331 Eurosur programme | 2 244 | 0 | -564 | -25% | 1 680 | 1 678 | 100% | 147 | 9% | 0 | 0 | 1 531 | 1 531 | 91% | 2 | 0% |
| 340 Pooled Resources | 1 000 | 0 | 225 | 23% | 1 225 | 1 219 | 100% | 612 | 50% | 0 | 3 | 607 | 610 | 50% | 6 | 0% |
| 341 EBCT | 0 | 0 | 0 | 0% | 0 | 0 | 0% | 0 | 0% | 0 | 0 | 0 | 0 | 0% | 0 | 0% |
| 350 Misc. operational activities | 150 | 0 | 0 | 0% | 150 | 150 | 100% | 109 | 73% | 0 | 0 | 41 | 41 | 27% | 0 | 0% |
| 351 Operational IT projects | 0 | 0 | 364 | 0% | 364 | 364 | 100% | 150 | 41% | 0 | 0 | 214 | 214 | 59% | 0 | 0% |
| 352 European Day for Border Guards | 400 | 0 | -60 | -15% | 340 | 309 | 91% | 275 | 81% | 0 | 0 | 35 | 35 | 10% | 31 | 9% |
| 353 Int'l Border Police Conference | 250 | 0 | 60 | 24% | 310 | 278 | 90% | 82 | 26% | 0 | 0 | 196 | 196 | 63% | 32 | 10% |

¹ (D)=(A)+(B)+(C)

² Non-automatic (C2)

³ Automatic (C8)

⁴ (J)=(D)-(E)-(G)

Frontex General Reports (2009-2013)

Figure 2 Final Budget Distribution

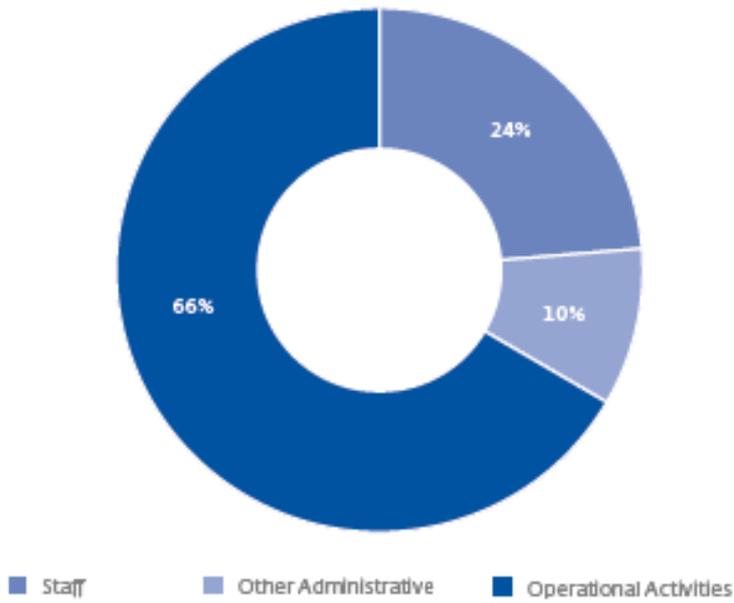
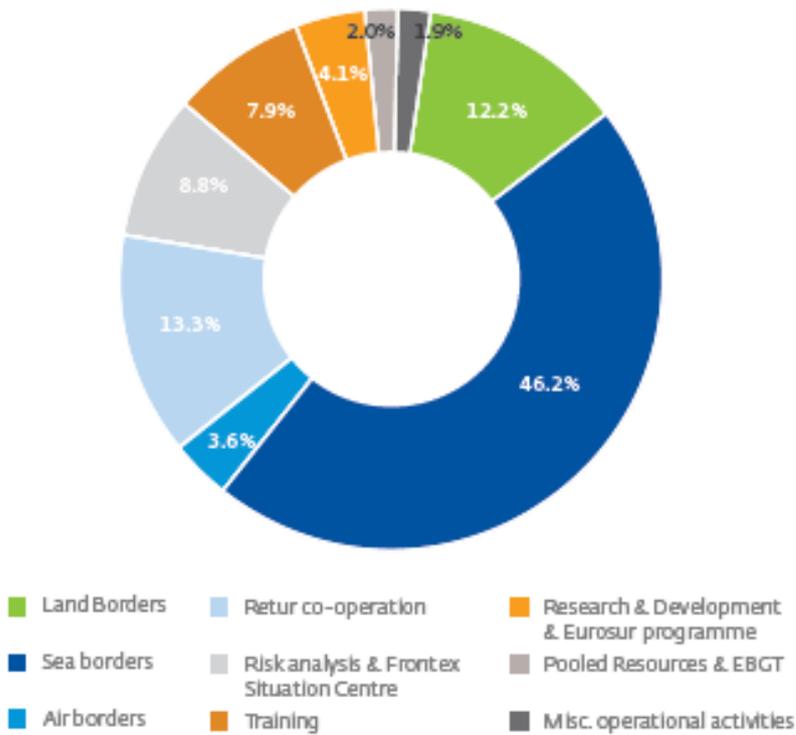
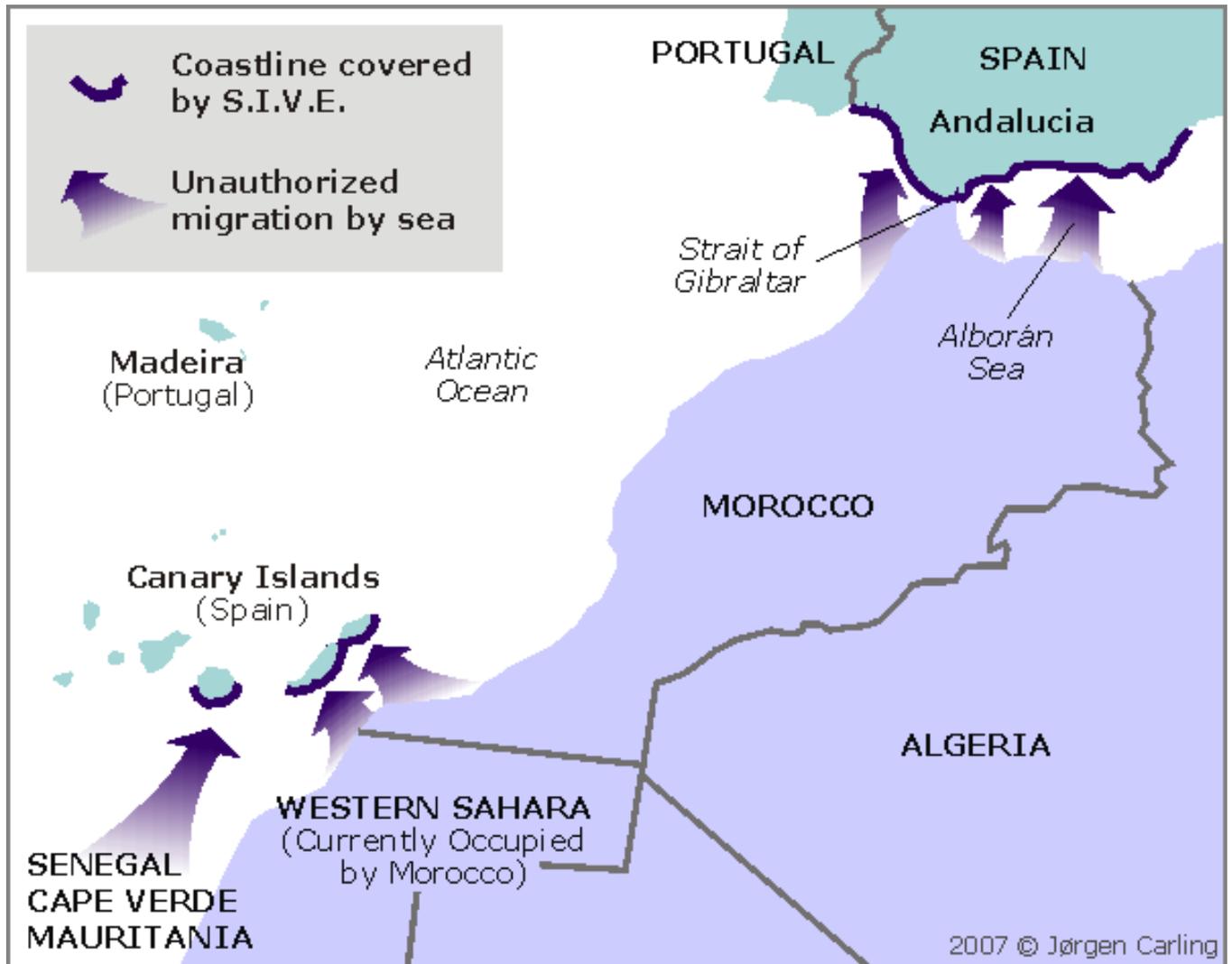


Figure 3 Final Operational Budget Distribution



Appendix VI: Map of the deployment of SIVE (2004-2006)



Carling (2007)