

## Chapter 9 - The Transformation of European Border Controls

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The issue of extraterritorial border controls appears daily in newspapers and other media throughout Europe. The image of people hanging on the tuna nets floating in the Mediterranean stands out as one of the most shocking of 2008. This externalization is the result of policy choices made in Europe both by the Member States and the EU. In this chapter we will examine how those choices are made and how the consequences lead inexorably to the people on the tuna nets. At the core of our argument is the contention that European (but also US) authorities have made choices about where their border controls will be carried out and developed forms of remote controls to check the identity of people who want to enter or transit through their territory before they travel, instead to check them at the border, when they arrive.

The argument of the authorities is that to check the legality of people's movement before they embark, with the help of the local authorities and with the air or land carriers, avoids the painful and expensive problems in sending them back if they are not the one who should be traveling. The argument of many non-governmental organisations is this policy puts refugees at risk especially if they are blocked in their country when they try to escape by this "upstream" policy<sup>1</sup>. The discussion is then

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<sup>1</sup> See for example EU: European Commission: Third annual report on the development of a common policy on illegal immigration, smuggling and trafficking of human beings, external borders, and the return of illegal residents (SEC 320, 2009): <http://www.statewatch.org/news/2009/mar/eu-com-illegal-imm-sec-320-09.pdf>

For a critical assessment see European Parliament saying more in-depth discussion needed on new measures for border management: "Every year, 160 million EU citizens, 60 million third country nationals (TCNs) who do not require a visa, and 80 million requiring a visa, cross the EU's external border.... [and] "does not believe that the proposed system will put an end to the 'overstay' phenomenon as such". According to an expert report for the Commission the total number of "illegal" immigrants in the EU 25 in 2006 was estimated to be over 8 million. Tony Bunyan, Statewatch editor, comments: "The intriguing category is the 60 million visitors a year from countries not requiring visas to enter the EU - from countries on the EU "white list" including people from Canada, Australia, Japan and the

sometimes reduced to finding a way to control, but in a humanitarian manner, with more attention to the exceptions, such as the refugees; to give access to justice to the people who want to present asylum claims, who have relatives in the EU or who are genuine tourists with enough money to purchase goods<sup>2</sup>.

This is most efficiently done at the borders of the receiving country, but it looks more efficient to do it at the point of departure, i.e: state consulates in the countries of origins of the flows, and along the way follow the flow through new policing activities and engaging the private companies of transportation.

This policy of “remote control” by the Western governments varies in intensity, from the very harsh policy of interdiction outside territorial waters initiated by the US against the Haitian refugees, the Australian authorities “excision” strategy of some of their islands, to the more or less prolonged hostility of the Greek, Italian and Spanish authorities towards Maghreb, with the help, in some cases of the European agency FRONTEX..

To analyze the forms of policing at a distance only as remote control public policy, while important, is nevertheless insufficient<sup>3</sup>. The answer it demands is a humanitarian exception to the right of the state to control its borders. It reflects sometimes on the trade offs between efficiency and the brutality. But it does not challenge the reasoning of the primacy of state and interstate order, and the legitimacy of the policy of externalisation of controls. It does not address the central relations between order, border and identity and fails to understand that the violence the Western societies project, or the freedom “we” want to spread by measures of

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USA. *How many of these have overstayed over the years? Are they to be subjected to the EU's Returns Directive which would see them hunted down, put in detention, deported and banned from re-entry for five years?"*

<http://www.statewatch.org/news/2009/mar/ep-border-management-surveillance-prel.pdf>

See also for a critique Liz Fekete, 'Deaths at Europe's Borders'. *Race and Class* 45, no. 4 (2004): 75-83. Teresa Hayter, *Open Borders: The Case against Immigration Controls* Pluto Pr, 2000): viii+188.

<sup>2</sup> Silke Reynolds, and Helen Muggerridge, *Remote Controls: How the UK Border Controls Are Endangering the Lives of Refugees*. Edited by Refugee Council (London, 2008): 86.

<sup>3</sup> Aristide Zolberg. “Bounded States in a Global Market” in Pierre Bourdieu, and James Samuel Coleman, *Social Theory for a Changing Society* (Boulder New York: Westview Press ; Russell Sage Foundation, 1991): vii, 389. Aristide R. Zolberg, and Peter M. Benda, *Global Migrants, Global Refugees : Problems and Solutions* (New York: Berghahn Books, 2001): xiii, 369 p. Adam McKeown, *Melancholy Order : Asian Migration and the Globalization of Borders* (New York: Columbia University Press, 2008): xii, 450 p. Antoine Pécoud, and P. F. A. de Guchteneire, *Migration without Borders : Essays on the Free Movement of People, Social Science Studies Series* (Paris New York: UNESCO Pub. ; Berghahn Books, 2007): x, 294 p.

policing are often two faces of the same coin, i.e.; the incapacity to have a cosmopolitan identity assumed through the values of freedom, equality and justice while living in a world where inequality is just next door. What to do with the “poor”? What to do when they want to move?

By using the notion of policing at a distance, we want to go a step beyond and to address these questions of our identity, the form of governmentality we develop in order to maintain our idea of ‘us’ as liberal citizens while organizing the filter of those who will have the right to come to visit us, and those who will not have this right, even if we do not know them<sup>4</sup>. The relation between border and control are not a “given”. They cannot be naturalized. They depend on the historical trajectory of the Western States and their relations to the others, of the way they have conceived peace and order, of the way they have considered that a frontier needs to be a thin line of defense, and a line of differentiation and not a limes, a zone of exchange. Certainly the liberal economy has transformed the previous state of police, and has insisted on borders as forms of junctions, but mainly for transit of goods, capital and services (people working), not for people’s pleasure (except if their pleasure is consumption of expensive goods). The economic reasoning and security rationale have often clashed in rhetorical terms, and it has been coined as a liberal paradox<sup>5</sup>. But the economy and the process of globalization do not lead towards less boundaries and a ‘no borders’ world. They intensify other boundaries and they reshape identities. They also create a more “liquid” world to borrow the metaphor of Zygmunt Bauman, going beyond any form of circulation and affecting identity and solidarity<sup>6</sup>. This liquidity can take the form of a mobility of persons across boundaries, but it is only one of its forms. Security can become liquid too. Instead of stopping, liquid security is then modeling and channeling the travel of the individuals, seeking to impose on them a form of

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<sup>4</sup> Didier Bigo, and Elspeth Guild, eds. *Controlling Frontiers. Free Movement into and within Europe* (Hants (England), Burlington (USA): Ashgate, 2005).

<sup>5</sup> James F. Hollifield, *Immigrants, Markets, and States: The Political Economy of Postwar Europe* (Harvard Univ Pr LC 91 44717, 1992): ix+305.

<sup>6</sup> Zygmunt Bauman, *Globalization : The Human Consequences, European Perspectives* (New York: Columbia University Press, 1998): vi, 136.

———, *Liquid Modernity* (Cambridge Malden, MA: Polity Press ; Blackwell, 2000): vi, 228.

———, *Liquid Fear* (Cambridge ; Malden, MA: Polity Press, 2006): 188 p.

———, *Liquid Times : Living in an Age of Uncertainty* (Cambridge: Polity Press, 2007): 115 p.

travel where speed and comfort are read as forms of freedom<sup>7</sup>. It is this logic which goes deeper than an extension or enlargement of border controls that we want to investigate, as it shapes differently the question. So, we have first to think about the delinking between frontiers and control specific to the European Union, and the reaction, sometime violent to the intensification of mobility, especially after September 11, with the temptation to set up to a global police state, and secondly to the more profound transformation of the way people move and are related with their territory, their bureaucracies and their states and how they frame their own identity in regards to the treatments they give to others.

Concerning the first point, the European Union project has modified the way frontiers and controls have been conceptualized under a sovereign state and interstate vision of borders and the locus of protection of the territory and the population, and has imposed a different vision of borders. A liberal way of thinking and the development of interlinked market economies have limited the military and police framings of the state borders, by differentiating between internal and external borders. But this liberal way of border management has been coextensive to a form of governmentality of unease and fear concerning mobility, first after the fall of the Berlin wall and then after September 11. Migration and overstay have been read as a rampant invasion. But the intensification of mobility is certainly not a reason for an intensification of control at the borders and the development of other forms of control upstream and downstream in order to make this control more efficient as if sealing the European Union Area was possible. We have to challenge the notion of control itself and its meaning concerning justice, equality and freedom. How far are the forms of control which are deterritorialized by a process of externalisation, first, efficient, second legitimate? Do we have the right to police in the name of our freedom (seen as antagonistic with their freedom) the individuals of the other countries?

In this relation between capacity of control, the logic of passage and will of mobility, the dynamics of externalization of controls look like a “fuite en avant” because of the

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<sup>7</sup> Bigo Didier, 'Speed as Freedom, Speed as Control', in *contesting borderzones* (Open University: 2009).

failure of strict border controls at the national level<sup>8</sup>. The widening of the zones in which to carry out control, and of the people to put under surveillance is exponential. The belief that technology will help is at the heart of all the governmental projects. In the USA, the wall between San Diego and Tijuana has been extended to cover the desert using military devices which constitute an electronic wall<sup>9</sup>. The Eurosur project in the Mediterranean Sea is built on the same faith that high military technology combined with high level of data communication and transfer of personal information through interoperable data bases, plus high speed forces of police intervention will tighten the control and stop people who want to pass irregularly<sup>10</sup>. The projects of entry and exit system in Europe along the lines of the Australian and US homeland security technologies are also a way to create a series of obstacles blocking the passage of people, and a way to track them, to punish them and to send them back in order to deter the new candidates<sup>11</sup>.

It is based on the assumption that the present international order is by definition to be preserved, that each state has to control its own population, that if they do not control their population, then they are failed states and the other states have the right to intervene on their territory to “help” them control their population’s movements. Are these assumptions realistic? Do they fit with the world we live in? Are they not a excessive reaction, a refusal to accept dynamics of social changes (demographic, economic, social etc)?<sup>12</sup>

Secondly, the world of sedentarism, of territorial states controlling the movement of their populations has been a very powerful myth of the Western political imagination, and has had effect on the way the world is shaped, but it is nevertheless a myth. The world is a world of passage. And it is this alternative to the doxa that the governments

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<sup>8</sup> Karine Bennafla, and Michel Peraldi, 'Frontieres Et Logiques De Passage : L'ordinaire Des Transgressions'. *Cultures & Conflits* 72, no. Winter (2008): 156.

<sup>9</sup> Malcolm Anderson, 'The Transformation of Border Controls: A European Precedent?' in *The Wall around the West. States Borders and Immigration Controls in North America and Europe*, ed. Andreas Peter; Snyder Timothy (Lanham, Boulder, New York, Oxford: Rowman and Littlefield, 2000), 15-29.

<sup>10</sup> Julien Jeandesboz, 'Reinforcing the Surveillance of Eu Borders: The Future Development of Frontex and Eurosur'. *CHALLENGE Papers CEPS* (2008 ): 23.

<sup>11</sup> Didier Bigo, Sergio Carrera, and Elspeth Guild, 'What Future for the Area of Freedom, Security and Justice? Recommendations on Eu Migration and Borders Policies in a Globalising World'. *CEPS Policy Briefs* (2008 ): 4

<sup>12</sup> Didier Bigo, Ricardo Bocco, and Jean Luc Piermay, 'Logiques De Marquages : Murs Et Disputes Frontalières'. *Culture & Conflits* 73, no. Printemps (2009): 176.

(alone or together or through common European and supranational agencies) have the capacity to regulate, manage, and control mobility that we want to explore here. Our main point will be then to challenge this capacity of the states or of EU institutions to manage the so called flow of population through a security dispositif opening or closing the locks at will, either for economic, sovereign, or humanitarian reasons. In fact they cannot, they can only continue with a narrative of control and to have strong symbolic politics claiming that they are still in charge. They can “mark” or “tattoo” certain populations, block some individuals and send them back, punish some others, but they cannot be “effective” in sealing the borders or even in channelling people from point A to point B and assuming they control all of them for all the routes they want to take. So the relationship between control and borders of the state is based on the idea of the capacity of state agents to stop people entering has to be rethought fundamentally.

### **The ambiguity of Frontiers in the European Union (Schengen and others)**

What are the frontiers of the European Union? And where are they? Do they resort as institutions to the traditional functions of differentiation, protection, junction, inclusion and exclusion? Traditionally over the past two hundred years, the frontiers of European states are frontiers hard fought, disputed and subject to wild variation, but quite clearly located, and more or less similar in their functions.<sup>13</sup> But the question poses a different problem and one central to the nature of the European Union: is there something about the way the European Union is framed and functions which changes the relationship of sovereignty to borders of European states ?

The point of departure for the usual discussion of the borders of Europe is often the 1957 EEC Treaty which creates the objective of the internal market. We have started from this point enough ourselves, but a broader view of state formation is certainly necessary to understand the different cultures of borders and borderzones which shape the EU as such. 1957 is then mainly a “convention” for the discussion of the

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<sup>13</sup> Malcolm Anderson, *Frontiers : Territory and State Formation in the Modern World* (Malden, MA: Polity Press, 1997): 255 p.  
Judd, T *Postwar, A History of Europe Since 1945* Heinemann, London 2005

specificity of the EU borders by the body of the EC Commission<sup>14</sup> The second step is the 1987 Single European Act which inserted into the EEC Treaty the 1992 project: to abolish border controls on the movement of goods, persons, services and capital within the territory of the Member States. The fall of the Berlin Wall on 9 November 1989 (an inversion of 9/11 which so interests security studies) changed the landscape of Europe in ways which even a few months previously had been considered unimaginable. One result was the movement of persons, both persons who had an entitlement to German citizenship as a result of their ancestry<sup>15</sup> and asylum seekers from East to West across a border not longer controlled by the Warsaw Pact countries. Another result was the disappearance of some sovereign borders in Europe such as that of the GDR the former East Germany and consequently also that of the former West Germany. But there was also the reappearance of European borders which had not existed for a few generations such as those of Estonia, Latvia and Lithuania.

In general, it must be recognized that the late 1980s and 1990s was a tremendously restless period in Europe as regards borders, their existence, their disappearance and their meaning. One of the functions of borders – the place where the sovereign state claims a right to control movement of persons - was put under very great pressure. Even the state question of the identity of persons as belonging to one state or another was very much in question.<sup>16</sup> The pressure within an EU of 15 Member States to abolish inter state border controls on the movement of persons by the deadline of 31 December 1992 as was promised in the Single European Act was too ambitious. Instead, a smaller group of Member States – the Benelux three, France, and Germany went ahead and abolished border controls among themselves on 25 March 1995 (though France maintained border controls with the Netherlands on account of its concerns about the Dutch policy on soft drugs – these controls were gradually abandoned).

So by the time one arrives at 1995, there are many state borders where the control of persons takes place in the European Union, but there are other sovereign borders

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<sup>14</sup> Groenendijk, K, Guild, E and Minderhoud P (editors), *In Search of Europe's Borders* Kluwer Law International: The Hague 2003

<sup>15</sup> The Ausseidler see Groenendijk K, , 'Regulating Ethnic Immigration: the case of the Aussiedler' *New Community* 23(4) 461 1997.

<sup>16</sup> Toth, J 'Relations of Kin-state and Kin-minorities in the Shadow of the Schengen Regime' *Regio*2006 Vol 9 pp 18 - 46

which are no longer used for this purpose. The legal setting for these arrangements was rather unsatisfactory as it was outside the EU framework in an intergovernmental arrangement of the Schengen Agreements. One of the consequences of the intergovernmental regulation of the abolition of border controls, rather than an EU controlled mechanism, is that those states which were unhappy about the loss of authority which a claim to control of persons at external frontiers provides were able to stay out and Ireland and the UK have ever since remained in splendid isolation never yet participating in the changing nature of border control in the EU except from the side lines. The other effect was that this permitted non EU states to slide into the border control free system – thus Iceland, Norway and Switzerland became part of the pact though outside the EU. When the whole arrangement was handed over to the EU in 1999 as it had become completely unmanageable in an intergovernmental setting without proper institutions, the partners came with it.

Europe's restless borders were not resolved by any means with the incorporation of the legal definition of where controls on persons take place into the EU legal framework in 1999. The fall of the Berlin Wall created quite a different dynamic which was moving in parallel to the borders issue but not directly associated with it in legal terms. The 15 Member States decided very quickly after the 1989 events to incorporate the states of Central and Eastern Europe which wished to become part of the EU into it. The first association agreement with Poland was signed in 1991 and was followed by agreements with what were then described as the Visegrad 5 (though they became six when the Czech Republic and Slovakia separated).<sup>17</sup> The security interests of some Member States, particularly those with borders to the East was paramount. However, between the signing of the agreements towards accession with the Central and Eastern European countries and their accession, Austria, Finland and Sweden joined the EU in 1995. With them, came as candidate states, the three Baltic states and Slovenia.

Another effect of 1989 which was played out around the creation and collapse of borders and which had dramatic consequences for the movement of persons to the EU

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<sup>17</sup> Anita Bocker and Elspeth Guild *Implementation of the European Agreements in France, Germany, the Netherlands and the UK: Movement of Persons*, Platinum, London, 2002.



was the war which accompanied the dissolution of the former Yugoslavia. This also took place after the EU decision to move towards incorporation of the Central and Eastern European countries and ended with the Dayton agreement in 1995 at the same time as the Nordic states and Austria joined the EU. The EU was the main destination for refugees fleeing the war in Bosnia.<sup>18</sup> The effectiveness or otherwise of border controls on the movement of persons was under substantial pressure.

Thus 1995 was an important year for the EU for a number of reasons all of which would converge around the question of border controls, where are they and what are their purpose. I will now jump forward in time to 1999, the date when the Schengen arrangements to abolition border controls among the participating states and to establish a common external border control system wash handed over to the EU. This is the most important part of the question: where are the frontiers of the European Union.

By 1999, all Member States, old and new had joined the Schengen system, with the exception of Ireland and the UK. By a protocol to the Amsterdam Treaty, the Schengen arrangements, a rather messy an copious body of treaties, decisions, letters etc has inserted into the EU. A traumatic few months passed as the institutions and the Member States tried to sort out the pile of paper and decide what was law and what was not. A final list of what became described as the Schengen acquis was established and after more agonizing a decision was made as to what was legal binding and there fore ought to be caught by the provisions of the new EC Treaty covering border controls, and what was not really law in the same way and ought to be part of the EU's Third Pillar, the more intergovernmental part of the EU. For the purposes of border controls on persons, the allocation of the information system which contains the names of all persons who should be refused visas and entry to the EU, the Schengen information System, to the Third Pillar is important. Thus, while the abolition of controls on the movement of persons within the territory of the Member States took place, a common system for the management of the external border was establish and a common visa system for short stay visas was all considered law and

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<sup>18</sup> UNHCR Statistics 1995 <http://www.unhcr.org/statistics/STATISTICS/3bfa32e82.pdf> visited 29 March 2008

EU law at that in the First Pillar, the list of persons to be refused entry was considered to be not quite law and inserted into the Third Pillar.

Now that the EU institutions had been placed in the driving seat as to what the border of Europe is, they proceeded to express a certain dissatisfaction as to the Schengen acquis, which can only be described as less than legally precise. The gradual process began of replacing the bits of the acquis with EU adopted measures which would fulfill the expectations of the institutions. In the process, the fuzziness which had surrounded the issue of borders inevitably began to dissolve. This is not to suggest that the development of the changing place of EU borders took place in a coherent fashion. Professor Steve Peers maintains a list of measures adopted at the EU level which is chronological in order. In March 2009 it looked like this as regards borders and visas:

*Adopted measures [UK & Ire have opted out of all measures except UK opt in to 4, 5]*

1. Reg. 1683/95 on common visa format (OJ 1995 L 164/1)
  - amended by Reg. 334/2002 (OJ 2002 L 53/7)
  - amended by Reg. 856/2008, OJ 2008 L 235/1
2. Reg. 539/2001 establishing visa list (OJ 2001 L 81/1)
  - amended by Reg. 2414/2001 moving Romania to 'white list' (OJ 2001 L 327/1)
  - amended by Reg. 453/2003 moving Ecuador to 'black list' (OJ 2003 L 69/10)
  - amended by Reg. 851/2005 on reciprocity for visas (OJ 2005 L 141/3)
  - amended by Reg. 1932/2006 (OJ 2006 L 405/23)
3. Reg. 789/2001 on procedure for amending CCI (OJ 2001 L 116/2)
4. Reg. 1091/2001 on freedom to travel for holders of long-term visas (OJ 2001 L 150/4)
5. Reg. 333/2002 on visa stickers for persons coming from unrecognised entities (OJ 2002 L 53/4)
6. Reg. 415/2003 on visas at the border and visas for seamen (OJ 2003 L 64/1)
7. Reg. 693/2003 on FTD and FRTD (OJ 2003 L 99/8)

8. Reg. 694/2003 on format for FTD and FRTD (OJ 2003 L 99/15)
  9. Reg 1295/2003 re special rules for Olympic Games (OJ 2003 L 183/1)
  10. Decision establishing Visa Information System (VIS) (OJ 2004 L 213/5)
  11. Reg. 2007/2004 establishing External Borders Agency (OJ 2004 L 349/1)
  12. Reg. 2133/2004 on biometric features in EU passports (OJ 2004 L 369/5)
  13. Recommendation on visa issuing for researchers (OJ 2005 L 289/23)
  14. Reg. 2046/2005 on Olympic visas: OJ 2005 L 334/1
  15. Reg. 562/2006, borders code: OJ 2006 L 105/1 (applies from 13.10.2006)
    - amended by Reg. 296/2008, OJ 2008 L 97/60
    - amended by Reg. 81/2009, regarding use of the VIS (OJ 2009 L 35/56) - adopted Nov. 2008
  16. Two decisions on transit through new Member States, Switzerland (OJ 2006 L 167)
    - see implementation information, OJ 2006 C 251/20
  17. Reg 1931/2006 on local border traffic within enlarged EU/at external borders of EU (OJ 2006 L 405/1)
  18. Decision establishing European Borders Fund (OJ 2007 L 144)
  19. Regulation 863/2007 on border guard teams (OJ 2007 L 199/30)
  20. Decisions on transit through Romania, Bulgaria, Switzerland (OJ 2008 L 161)
  21. Reg. 767/2008 establishing Visa Information System (OJ 2008 L 218/60) ; third-pillar VIS Decision (OJ 2008 L 218/129)
- Implementing Measures*
- Common Consular Instructions, consolidated text: [2005] OJ C 326/1
- amended by Decision of June 2006 (OJ 2006 L 175)

Even a cursory glance at the list indicates that it is not particularly coherent in the chronology in which measures were adopted. While it makes sense that the field commences with a decision on nationals of which countries require visas to enter the EU, the arrival of FTD (Facilitated Travel Documents) which are a political solution to the isolation of the Russian enclave of Kaliningrad or the special rules of the Olympic games, indicates the sensitivity of the field of the occasional gusts of political will.

What is consistent, however, is the gradual ceding of control over aspects of the law on border controls on persons from the Member States to the EU. The other consistent aspect of the list is that while the big rules – such as the visa regulation, the borders code and now the visas code provide the framework of how the EU border works for the movement of persons, the list is littered with the exceptions. The need to create exceptions to every rule of specific classes of persons provides an organizing principle to the list which is even stronger than the centrifugal force of a common set of rules.

Turning then, to the Schengen Borders Code (Regulation 562/2006), adopted in 2006, here can be found the common rules governing the movement of persons across borders. It is in this document we find the definition of the internal and external border of the EU. Internal borders, according to the Code are:

- (a) the common land borders, including river and lake borders of the Member States;
- (b) the airports of the Member States for internal flights;
- (c) sea, river and lake ports of the Member States for regular ferry connections.

External borders, according to the Code mean the Member States' land borders, including river and lake borders, sea borders and their airports, river ports, sea ports and lake ports, provided that they are not internal borders.

Thus the definition of the external border is exclusively by reference to the definition of the internal border. The EU examines itself, its gaze fixed entirely on what it is and where it is and only by reference to this loving examination of itself does it then casually determine that everything else is external. The EU does not appear the least bit concerned about how the rest of the world views it, nor indeed what the rest of the world might look like. In its determination of its internal and external borders, the organizing principle is exclusively, where are we? One might also detect a certain anxiety about the question where are we in the Borders Code. Article 34 requires the Member States (and the others participating in the system) to notify the Commission of a list of their border crossing points. The list which has been produced and can be

found on the Commission's website reveals quite an extraordinary picture.<sup>19</sup> For instance Belgium has three air ports, three sea ports and one land crossing point – the Eurostar – though the train passes through France before arriving at the tunnel to the UK. The Czech Republic differentiates its external borders with other EU states, such as Poland with which it is 19 land borders crossing points, 33 local border crossing points. Greece, on the other hand has four land crossing points with Albania and another four with FROM (Macedonia) and 53 sea borders. The complexity of the EU common external border is daunting.

The Borders Code specifies that the external frontier may only be cross at the designated border crossing points at hours permitted. There is then a derogation for pleasure boating, costal fishing, seamen going ashore, groups of a special nature and unforeseen emergencies (article 4). But for all other border crossing the Code requires states to introduce penalties, in accordance with their national law for the unauthorized crossing of external borders at places other than border crossing points or at times other than the fixed opening hours (article 4(3)). The criminalization of movement across international borders has begun. In view of the variety and heterogeneity of the border crossing points, this means that crossing the land border from Albania to Greece is only permitted a four points though the common border is many hundreds of kilometers long. All other border crossing is potentially unauthorised and criminalized. Arrival at any but the three Belgian sea ports which have been notified has the same consequence.

On the other hand, the borders of the EU where controls on persons take place now define out all the inter Member State borders (with the additional states and minus Ireland and the UK). Article 20 simply states internal borders may be crossed at any point without a border check on persons, irrespective of their nationality, being carried out. So while the external border is a pixilated place of points on a map which is not only geographical but also temporal – crossing is only permitted at certain times, the internal border is a single continuous timeless place where there is no control. One final reflections bears mention, the EU's external border bears no relation to the external border of any country with which it is contiguous. The

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<sup>19</sup> <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2006:247:0025:0084:EN:PDF>

definition of the EU's external border is in no way dependent on any sovereign claims by states outside the EU. If their definition of their external border with an EU Member State is based on the kind of seamless, timeless line which with which the EU defines its borders among its Member States, then the EU is unaware and uninterested for the purposes of its own border code.

It seems that identity formation, and sense of stability and order are then more central than state sovereignty or even preoccupations of security for the different players of the EU borders management. And it is this tension between a will to stabilize the EU in a world of change that explains the contradictory policies of the multiple actors. Some wants to promote and develop the neighbors as if they were children that a good tutor can put on the right side, others are more insecure and want to set up multiple filters and are even ready to have blockades, others are quite indifferent and refuse to look at the contradictions and inequality between the different zones in order to speak only in terms of legality and illegality of a certain world order.

- **Policing at the Legal Limits of the Border ? Practices of policing and access to rights**

Among the more original aspects of the EU's external border is that an agency was established, called the External Borders Agency (otherwise known as FRONTEX) in 2004, two years before the EU had adopted its set of rules on the crossing of the external border (The Schengen Borders Code). The objective of the agency according to its founding document (Regulation 2007/2004) is to improve the integrated management of the external borders of the Member States of the European Union. Thus for FRONTEX there are Member State borders while for the Schengen Borders Code there are internal and external borders only. The main tasks of FRONTEX are:

- Coordinate operational cooperation between the Member States in the field of management of external borders;
- Assist Member States on training of national border guards;
- Risk assessment;
- Follow up on development of research;

- Technical and operational assistance to Member States;
- Support in organizing joint return operations.

Based in Warsaw, FRONTEX became operational in 2005. In the list of FRONTEX's tasks there is no mention of the common EU external frontier nor of the internal borders. Its relationship with the Schengen Borders Code is not spelt out in its founding document for the simple reason that the Code did not exist when it was set up. This means that FRONTEX was established as the EU's external border agency before the EU had defined or given a legal definition to its external frontier let alone who and how individuals should be able to cross that frontier. A second important aspect of the task of FRONTEX is the degree to which it is tied to the Member States. The agency's job is not related to the European Commission or the Council or the European Parliament. The funding which it receives from those sources, which doubled between 2006 and 2007 from €19,166,300 to €2,150,300<sup>20</sup>, is not related to how it carries out the EU's definition of the borders but rather to how the Member States perceive the needs of external border management. It is not surprising that as a result there is something of a chasm between the rules of the Schengen Borders Code and the actions of FRONTEX. They are not coordinated, nor is there any clear point of intersection between the two.

For example, during 2008, FRONTEX coordinated joint operations entitled HERA 2008 in the Canary Islands and NAUTILUS 2008 around Malta and the Italian islands of Lampedusa and Sicily.<sup>21</sup> The purpose of HERA was to tackle illegal migration flows coming from West African countries heading to the Canary Islands. That of NAUTILUS was to reinforce border control activities in the Central Mediterranean and control illegal migration flows coming from North African countries heading to Malta and Italy.<sup>22</sup> According to data published on the FRONTEX website the total number of arrivals in the HERA 2008 action was 9,615. The number of so-called illegal migrants diverted back/deterred was 5,969. The number of interviews carried out by FRONTEX was 1,785. For the NAUTILUS 2008 operation a total of 2,321

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<sup>20</sup> FRONTEX Annual Report 2007.

<sup>21</sup> FRONTEX News Release 17-02-2009

<sup>22</sup> Ibid

arrivals to Malta and 16,098 to Italy were recorded. No so-called illegal immigrants were diverted back or deterred and 793 interviews were carried out.

Nowhere in the Schengen Borders Code is there a provision about diverting boats away from the EU external border. Rather, there are provisions that individuals on pleasure and fishing boats be permitted to arrive even exceptional outside the permitted hours of a border post and at other places. When the non-governmental organization, the Immigration Law Practitioners' Association (ILPA), requested information from FRONTEX regarding the legal basis of the operations it received the following reply "The documents setting out the legal basis for operations diverting vessels back to Mauritania and Senegal are Spain's agreements with Mauritania and Senegal. Since FRONTEX does not have copies of Spain's agreements with Mauritania and Senegal we are obliged to ask you to turn to Spanish authorities in this regard."<sup>23</sup>

Article 4(3) of the Schengen Borders Code provides that the rules on the crossing of the external borders is without prejudice to the Member States' international protection obligations. According the ILPA asked whether in the context of the interviews with FRONTEX carried out in the HERA and NAUTILUS operations any of the persons had asked for asylum. The reply from FRONTEX included the list of nationalities of persons who had been interviewed in both operations. This included in the NAUTILUS 2008 operation:

- 2,925 Eritreans;
- 126 Iraqis;
- 182 Pakistanis;
- 3,578 Somalis.

According to UNHCR, all of these countries rank among the top ten countries of origin of asylum seekers in the European Union. In 2008, 3,846 Eritreans applied for asylum in the EU 27; 26,195 Iraqis; 10,769 Pakistanis and 12,872 Somalis. In the

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<sup>23</sup> Letter 21 January 2009 to Ms Barret-Brown, ILPA from Gil Arias, Deputy Executive Director, FRONTEX.



FRONTEX letter of 21 January 2008, it is stated “FRONTEX experts, deployed in the framework of the Joint Operations only interview part of the persons arrived and interviews are carried out for intelligence purposes only...As regards the asylum claims, so far as FRONTEX is not aware of any claims of any claims of asylum which have been submitted to the national authorities during the referred joint operations. Nevertheless, it could be the case, that hosting Member State[s] could receive asylum claims later on, just after the interrogation.”

It is difficult to square this response and the quite apparent effort to avoid any responsibility for asylum and protection claims even though the individuals whose nationalities are identified include those persons from countries whose nationals are most numerous seeking protection in the EU with the Schengen Borders Code duty to give priority to the Member States’ international protection obligations, most specifically the UN Convention relating to the status of refugees. Only a highly legalistic reading of the separation of competences provides a fig leaf for FRONTEX to hide behind – either it is interviewing people who are desperately seeking international protection but its officers do not hear protection claims, all they hear is intelligence. It is a step too far to compare this approach with that of intelligence officers of various EU countries who have become involved in obtaining intelligence even from their own nationals under circumstances of torture in the context of the US’s extraordinary rendition program.<sup>24</sup> Nonetheless, the echo is there.

According to the FRONTEX Annual Report 2007, the NAUTILUS 2007 operation cost the EU €5,083,853. The HERA 2007 operation cost €5,416,000. In the NAUTILUS operation, 464 persons were detected or intercepted. In the HERA operation 2,020 persons were intercepted and 1,559 persons diverted away from an EU external border. The cost effectiveness of the NAUTILUS operation is astonishing. The question of proportionality must inevitably be raised in addition to the question of non-refoulement of refugees, fundamental human rights and the correct application of the Schengen Borders Code.

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<sup>24</sup> Geyer, *Fruit of the Poisonous Tree – Member States’ Indirect Use of Extraordinary Renditions and the EU Counter-Terrorism Strategy*, CEPS, Brussels, April 2007

FRONTEX's operations do not stop with these operations. It also coordinates joint operations at the land borders of the EU. A representative example of this kind of operation, as described in the FRONTEX Annual Report 2007 is NIRIS. This cost only €150,000. It last for ten days from 18 – 27 June 2007. It was based on a risk analysis carried out by FRONTEX which showed an increase of illegal migration of Chinese and Indian nationals in the Scandinavian region. As a result of the risk analysis NIRIS was planned. The operation took place at the air and sea ports of the participating states: Denmark (Copenhagen Airport), Estonia (sea ports), Finland (Helsinki Airport, sea and railway posts), Germany (Frankfurt Airport), Latvia (sea ports), Lithuania (sea ports), Norway (Oslo Airport and sea ports), Poland (Warsaw Airport and sea ports), Sweden (Stockholm Airport and sea ports). But this operation was not limited to EU and EEA countries, apparently the Russian Federation also participated. During the operation 579 individuals were interviewed. According to the Annual Report a total of 273 Chinese and 306 Indian nationals were singled out for what are described as second line checks and interviews in 314 airports, 205 sea ports and 60 external land borders. As a result of the disturbance of the 579 travelers, 15 people were refused entry, fourteen of them apparently seeking to cross the border illegally and one in the transit area of Helsinki airport. The proportionality of the number of air and sea ports disrupted by this operation, the involvement of so many countries and their border guards when taking into account the paucity of results (15 people refused entry) is highly questionable. The solidity of FRONTEX's intelligence in its risk analysis must be questioned as a result. The consequence for the 579 individuals, however is the most problematic. They were singled out on the basis of their nationality as a potential risk to the external frontier of the EU. On the basis of their passport they were subjected to secondary checks and interviews irrespective of the fact that virtually all of them fulfilled the requirements of the Schengen Borders code for entry into the EU. Were they offered any compensation for the disruption to their lives as a result of questionable intelligence which FRONTEX had provided to the Member States?

Turning, then to FRONTEX's activities coordinating joint return operations, according to the FRONTEX Annual Report 2007, it assisted in the organization of eleven joint return operations. Germany organized three returns with participation from Switzerland, Spain, Italy, Luxembourg, Poland, France and the Netherlands. The

first two resulted in 54 people being sent to Cameroon, Ghana and Togo. The final one resulted in 13 people being returned to Togo and Benin, though according to the report originally the destinations had been Togo and Guinea. There is no explanation why there was a change of destination. This also stands out as the smallest number of persons returned in a joint operation though the largest number was in an operation coordinated by Spain together with France and Italy (co-financed by the EC) where 75 persons were returned to Ecuador and Colombia (both countries from which substantial numbers of asylum seekers come to the EU). One of the problems with joint operations, is their practical organization. State authorities must signal in advance how many seats they want to fill on a joint return operation flight. They need to make sure that they have the correct number of persons ready to board the flight at the right time and those persons must be nationals of or admissible to the state where the flight is going. This all points in the direction of detention for those individuals who are chosen for a joint return flight at least in the days before the flight is to depart. Not infrequently there are problems regarding the legal status of individuals chosen for the flights, for instance they introduce a new application to remain on the territory which the courts determine must be given suspensive effect. The result for the state authorities is either fail to fill a seat for which they have already paid in a joint return flight or find someone else to send to that country. Anecdotal evidence indicates that in such circumstances, state interest tends to settle on persons who are 'easy' to return (ie easy to find and unlikely to resist) such as older persons or women with young children.

Finally, it is worth stopping briefly at the FRONTEX operation ZARATHUSTRA. This was carried out between 26 March 2008 and 14 April 2008. The budget was €236,390. Its focus was on detection of illegal migrants from Iraq and Afghanistan at the European external air borders. Apparently, "60 illegal migration related incidents were detected, 16 refusals and 15 forged documents were identified."<sup>25</sup> Among the participating states was Austria. According to UNHCR's Statistical Yearbook 2007, Table 12, 79% of Iraqis who seek asylum in Austria are given protection. For Afghans the figure is 84%. The argument is often made that states are not required to assist refugees to arrive on their territory, only not to refoule them back to a state where

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<sup>25</sup> [http://www.frontex.europa.eu/examples\\_of\\_accomplished\\_operati/art28.html](http://www.frontex.europa.eu/examples_of_accomplished_operati/art28.html) visited 29 March 2009.

they would suffer persecution. Nonetheless, participation in a joint operation designed to prevent persons who seek protection in substantial numbers in a state and who receive protection in very high percentages in that state raises serious questions about the duty of good faith to the UN Convention relating to the status of refugees.

The question of access to launch an application for asylum seekers before to be sent back is then crucial. The differential of locus between the practices of policing and the practices of rights is particularly clear, even if it is only one example of the disjunction voluntary or not between policing, space and law<sup>26</sup>. The logic of policing at a distance goes deeper as it set up what we have called an (in)security continuum justifying internally a governmentality of unease<sup>27</sup>.

### **Policing at a distance – extraterritorial controls – reshaping of democratic identity**

Surprisingly, although FRONTEX was already established in 2005, it was not the only international organization carrying out operations against ‘illegal immigrants’ in the Mediterranean. According to a press release from NATO, 25 March 2006, it too was assisting a Member State, Greece in an illegal immigration operation. According to NATO “ In the course of conducting counter-terrorism operations in the Mediterranean Sea, NATO ships assigned to Operation Active Endeavour assisted Greek law enforcement agencies in the prevention of illegal immigration.” It would seem that FRONTEX had a competitor on the ground. Vice Admiral Roberto Cesaretti, Commander of NATO Maritime Forces in the Mediterranean is quoted as saying “I am delighted we have been able to assist the Greek authorities in bringing criminal to justice. Greece makes a significant contribution to fighting terrorism by providing ships and patrol aircraft to Operation Active Endeavour...Although this event relates to criminals, there is also a message for the terrorists here – we are looking for you, and when we find you – there will be no place to hide.” The

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<sup>26</sup> Tugba Basaran, 'Geographies of Security: Security, Law and Space in Liberal States'. Cambridge University, 2008: 192.

<sup>27</sup> Didier Bigo, 'Security and Immigration: Towards a Governmentality of Unease'. *Alternatives/Culture&Conflits* 27 (2002).

———, 'Global (in)Security: The Field of the Professionals of Unease Management and the Ban-Opticon'. *Traces: a multilingual series of cultural theory : Translation, Philosophy and Colonial Difference* 4, no. 4 (2006): pp. 109-157.

assumption appears to be that the terrorists may have been thinking of hiding out on the little pateras and other small boats in the Mediterranean which carry people from the East and Southern shores to the northern shores.

One of the main thrusts of the EU policy on integrated border management has been cooperation with third countries.<sup>28</sup> In the previous section we examined some of the key problems around the FRONTEX actions just beyond the EU external border and the lack of coordination of its actions with the Schengen Borders Code. In order to remedy the position of FRONTEX as an actor with the same kind of global reach as NATO, agreement was needed with third countries. The kind of answer which FRONTEX provided to ILPA in January 2009 (see previous section) that its operations were legally based on agreements which a Member State, Spain had entered into with a third country and that FRONTEX was unable to provide copies of them, was clearly problematic. Between 2006 and 2008 FRONTEX entered into Working Arrangements with:

- Russia – 14 September 2006;
- Ukraine – 11 June 2007;
- Croatia – 2008;
- Georgia – 2008;
- Moldova – 12 August 2008.

and an exchange of letters with UNHCR on 13 June 2008. None of the Working Arrangements specify a legal basis on which they were negotiated or agreed. Instead, they include a provision (paragraph 6) which states that “the present Terms of reference shall not be considered an international treaty. Practical implementation of its contents shall not be regarded as the fulfillment of international obligations by the European Union and [the other party]”. Interestingly, the Moldova Working Arrangement includes a further specification – when it entered into force (the date of signature) and that it is for an indefinite period. Further, it provides that either party can terminate the arrangement three months after giving written notice to this effect. In the interests of equality, the Moldova Arrangement states that there are two original

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<sup>28</sup> Hobbing, P *Integrated Border Management at the EU Level*, CEPS, Brussels, August 2005

copies one in English the other in Moldovan “both texts being equally authentic”. However, the Arrangement goes on to state that “in case of disagreement on the interpretation of the provisions of the present Working Arrangement, the English version shall prevail.”

A comparison of the objectives of the Working Arrangements reveals both similarities and variations in the relations of FRONTEX with the five countries. The common provisions are the only ones which can be found in the Russia Arrangement and they are two:

- To counter irregular migration by means of Border Control;
- To strengthen law and public order and security at the borders between the EU Member States and Russia.

In the Ukraine Arrangement, counter irregular migration is supplemented by the objective of countering related cross-border crime by means of border control. Thus there is an elision of cross borders, crime and border controls. The Ukraine Arrangement also includes a further objective: to develop good relations and mutual trust between border guard authorities at the borders between EU Member States and Ukraine. The Croatia Arrangement varies yet again, while the key focus is counter irregular migration, it includes in addition to cross border crime, strengthening security at the borders between the EU Member States and the Republic of Croatia. This might seem somewhat galling for a candidate state which is hoping to abolish border controls between itself and the EU. The Croatia Arrangement also includes the good relations provision as an objective.

The Georgia Arrangement follows the pattern of the others but adds a further element to its objectives: to facilitate measures taken by FRONTEX and the MIA Border Police of Georgia. The same wording is also to be found in the Moldova Arrangement.

While the EU uses almost exclusively the term ‘illegal migration’ it is heartening that in these Arrangements the term is avoided in favour of ‘irregular migration’. The

difference is of course enormous. At border crossing points between the states, the vast majority of persons crossing will be nationals of the states. Thus the arrangements will have their greatest effect (assuming they have an effect) on nationals of the states involved. If these persons would have been designated in advance as illegal migrants, before they leave their country of origin, the consequence would be that for the purposes of the Arrangements, anyone in the state could be treated by FRONTEX as a potential criminal. The approach of NATO in its 2006 Mediterranean adventure would be the norm.

Moving then to the content of the Arrangements, the Russian one sets the stage with three contents:

- Active discussions on development at [a] technical level of border procedures, including matters aiming at more efficient border control, best practices, improvement of technical equipment and technological upgrading at the borders;
- Improvement of interaction between command/management structures and units responsible for border control;
- Coordination of joint operational measures for maintaining and improving border management, including elaboration of ideas on technical improvement.

There is a heavy emphasis on hardware – it would seem that at the heart of the Arrangements is the possibility that technology equipments will be shared across the border and perhaps EU funding to assist the upgrading of Russian material.

The Ukraine Arrangement has quite a different set of contents notwithstanding the similarity of objectives. There are five contents:

- Development of activities in information exchange and risk analysis;
- Development of field training activities and research;
- Coordination of joint operation measures and pilot projects for maintaining and improving border controls;
- Active discussion on development at [a] technical level of border procedures;

- Improvement of interaction between command/management structures and units responsible for border controls.

Here the teaching objective of FRONTEX comes out more clearly. The activities will allow FRONTEX to teach the Ukrainian border guards how to do European border control. The EU procedures on border controls are clearly intended to set the standard against which and in respect of which the Ukrainian border controls are to be measured. Participation in the EU risk analysis depends on the development of the training activities etc.

The Croatia Arrangement is much more elaborated. Here there is evidence of the preparation towards accession of Croatia to the EU. The Croatian border guards are required to provide information to FRONTEX in order to enable it to carry out its tasks under its founding regulation. On the Croatian side restrictions will only be tolerated where they are justified due to legal or operational reasons. In return the Croatians will be entitled to have a national contact who participates as an observer in the FRONTEX Risk Analysis Network. The Croatians will have access to the Annual FRONTEX Risk Analysis reports but not necessarily to the tailored ones or other risk analysis information. The Croatians will undergo yet more training and technical cooperation. In return the Croatian side may be invited, as observers, to participate in joint operations. Further, FRONTEX coordinated joint operations at the borders of Croatia will be conducted in close cooperation and participation of the Croatians. At least under the Arrangement, the EU does not seek permission to undertake operations on the Croatian border without informing the Croatian border guards. Finally, there is the possibility of participation in joint return operations and pilot projects for the Croatians. Presumably the interest of the Croatians in the joint returns is to reduce the cost of returning individuals to far away places. It is not entirely sure what the pilot projects covers, but this may well be a heading which need to be watched closely.

The Georgia and the Moldova Arrangements are the same and are less extensive than their Croatian counterpart as regards the contents with one interesting exception. Here activities are limited to five areas:



- Information exchange and risk analysis;
- Training and research;
- Joint operational measures and pilot projects;
- Development at the technical level of border procedures;
- Operational interoperability between Georgia and the EU.

The last item in the list is interesting. As the EU has moved to greater interoperability in border control but also policing with a fair amount of resistance both within interior and justice ministries and also civil society,<sup>29</sup> it appears it is planning to share information with Georgia and Moldova.

Finally, the Arrangements provide for how the work will take place under the heading “Organisation”. Once again the Arrangement converge at this point and the similarities among them outweigh their differences. Basically there are three activities which are covered under this heading:

- Structured dialogue on operational cooperation at a high level – the Executive Director of FRONTEX and his or her counterpart in the other state;
- Daily contact via agreed points of contact and possibly expert working groups;
- Facilitation of FRONTEX and the other parties work.

Only the Georgia and Moldova Arrangements do not include the facilitation provision.

While FRONTEX has been pursuing arrangements within the neighbourhood and with the Russian Federation, concerns about its role in international protection were also becoming more important. Notwithstanding an informal arrangement whereby a UNHCR official was assigned to FRONTEX, formal undertakings were considered more appropriate. On 13 June 2008, an Exchange of Letters between UNHCR and FRONTEX was agreed. In comparison with the Arrangements, this Exchange of

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<sup>29</sup> Thierry Balzacq, Didier Bigo, Sergio Carrera and Elspeth Guild, *Security and the Two-Level Game: The Treaty of Prüm, the EU and the Management of Threats*, CEPS, Brussels, January 2006

Letters is much more professional in its appearance and contents. Clearly there has been some attention paid to the legal form – an Exchange of Letters is a recognized instrument in international relations – and the commitments are much more carefully considered. The objective of the exchange of letters is to establish a framework for cooperation between UNHCR and FRONTEX with the view to contributing to an efficient border management system fully compliant with Member States’ international protection obligations “and, in particular, with respect to the principle of *non-refoulement*”. In order to achieve the objective, six activities are foreseen:

- Regular consultation and appropriate levels;
- Exchange of information and expertise on migratory movements towards the EU;
- Preparation of training materials, tools and participation in border management;
- Sharing information on joint operations;
- Other *ad hoc* activities.

The implementation and evaluation of the Exchange of Letters requires an annual review. The Exchange appears very cautious, neither side seems to have committed itself to much. It is hoped that the first annual review will be made public so that researchers and civil society can be reassured that UNHCR is able to play an important role in ensuring that refugees are able to access protection in the EU notwithstanding the development of an external border control beyond the EU border.

The EU’s external border police face a formidable task in establishing credibility both within the EU and externally. The heavy focus on operation cooperation both with the Member States and third countries only distracts attention away from the key question – what law is being implemented and how should it be implemented. So long as FRONTEX accepts that it is the Member States which determine the law to be applied and avoid the question of entitlements to cross borders by referring to third country nationals generically as illegal migrants it is unlikely that the legitimacy which it needs will be accumulated.

The emphasis on the collaboration against “illegals”, on exchange of technologies of coercion and surveillance, on training of local polices as the main activities to promote an extended area of freedom, security and justice, is neither a security agenda developing protection, or a freedom agenda promoting rights of access, it is a coercive agenda which turns stability or immobility as a value, or which wants to transform foreigners into docile subjects. It has effects not only on them but also on us and on our democratic practices.

### *Conclusions*

It may be that the European Union has been, more by accident than by a conscientious strategy, the first area where it has become clear that the relation between border and control needs to be reframed within the notion of freedom of movement, importance of mobility beyond economic advantages, and it has created tensions between the will to extend control over the individuals on the move on one hand, and on the other hand the idea that multiplicity, diversity and passage are core values of democracies.

Etienne Balibar, Jacque Rancière, Sandro Mezzadra have all tried in their books to provide us with a different sense of a world of passage, of Europe as a border itself<sup>30</sup>. It is a philosophy which refuses both the interstate order as a just order, and a neo-liberal globalisation of a world without borders but still with exploitation inside a global cosmopolitan empire. It takes the individual seriously and as a subject of right, not as a number in a crowd, a drop of water in a flow, a false positive in a continuous flow of information. It is from this perspective that we have examined the changing nature of the frontiers of Europe and the EU’s relationship with policing at a distance.

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<sup>30</sup> Etienne Balibar, *Les Frontières De La Démocratie, Cahiers Libres. Essais* (Paris: La Découverte, 1992): 267, [261]. Etienne Balibar, *Nous, Citoyens D'Europe? Les Frontières, L'état, Le Peuple* (Paris: La Découverte, 2001) Marie-Louise Mallet, Hélène Cixous, Michaël Levinas, Michel Deguy, and Etienne Balibar, *Le Passage Des Frontières : Autour Du Travail De Jacques Derrida, Collection La Philosophie En Effet* (Paris: Galilée, 1994): 583, [581]. Jacques Rancière, *On the Shores of Politics* (London ; New York: Verso, 1995): 107 p. Jean Borreil, Christine Buci-Glucksmann, Geneviève Fraisse, and Jacques Rancière, *La Raison Nomade* (Paris: Payot, 1993): 253 p. Charlotte Nordmann, Bourdieu, Rancière : *La Politique Entre Sociologie Et Philosophie* (Paris: Amsterdam, 2006): 179 p. Jacques Rancière, *Disagreement : Politics and Philosophy* (Minneapolis: University of Minnesota Press, 1999): xiii, 150 p., Jacques Rancière *On the Shores of Politics, Radical Thinkers* (London: Verso, 2007): 107 p. Jacques Rancière, and Steve Corcoran, *Hatred of Democracy* (London New York: Verso, 2007): 106 p. Sandro Mezzadra, and Bridget Anderson, *I Confini Della Libertà : Per Un'analisi Politica Delle Migrazioni Contemporanee*. 1. ed (Roma: DeriveApprodi, 2004): 285 p.