

## Frontex and the EU Border Regime

### Introduction

Currently, as of 2014, the European Union extends along approximately 12,000 km of land borders and 45,000 km of maritime borders. In contrast to many other policy areas, the common policies for the EU's external borders do not adhere to the aims originally set at their creation in the 1950s. On the contrary, from the very beginning, the EU's founding fathers rooted four fundamental freedoms in the treaties, including the freedom of movement for Union citizens.

The EU border regime is a response to the freedom of movement that has existed since the mid-1990s. Since then, in an attempt to deter both criminal activity and illegal migration, the EU external borders have become ever more geographically extensively and rigorously secured. Nowadays, the EU border regime is usually equated with the border management agency, Frontex. Frontex is indeed a central player, but the EU border regime is much more than Frontex alone.

To shed some light on this topic, this dossier will begin with an explanation of who or what Frontex is and continue with an analysis of the current EU border regime. The final section closely scrutinizes the most recent developments of border security.

### Frontex — Questions and Answers

#### Who or What is Frontex?

Frontex is not a border policing body, but an agency of the European Union, founded on 1 May 2005 by the EC Regulation No 2007/2004. Frontex's purpose is to contribute to the management of the EU's external borders. The agency employs independent contract workers as well as so-called Seconded National Workers who are employed and sent by the Member States.

An agency is an independent body of European public law and hence operates separately from the Community

#### Illegal, Irregular, Unauthorized or Undocumented Migration?

"No One is Illegal" is the slogan of a popular human rights initiative. The designation for the external border security's target group as "illegal" is faced with strong emotional controversy in public discourse and in political discussions.

The actor addressed here is either a person who is not a citizen of the country he or she wishes to enter and fails to present valid entry documents (passport and visa) or is in possession of falsified entry documents or who has entered the country with legal documents, yet stays longer than allowed under his or her visa (so-called "overstayers").

In German residence law, the first two cases are referred to as cases of "unauthorized entry" (§14 AufenthG/Residence Act). They are also referred to as "illegal immigration". The reference made here is to the non-legal act of crossing a border, which is a criminal offense under German law. It would be both politically and legally incorrect to speak of "illegal migrants" or "illegal immigrants" since it is not the people themselves who are illegal, but rather their act of crossing the border.

In critical migration research, attempts are made to avoid the classification of legal/illegal by preferring to use the description "irregular" or "undocumented". The latter has taken hold in the French language in the term "sans papiers".

institutions (Council, Parliament, Commission, etc.). Agencies support the EU by implementing its policies, particularly for administration and research.

### What does Frontex do?

Frontex's<sup>1</sup> stated target is to ensure that "Europe's borders remain open and secure". To this end, Frontex has three central tasks: 1) to analyze, 2) to coordinate, and 3) to support:

#### (1) Analysis

Frontex collects data and information on illegal migration and international criminal activities, such as human trafficking or smuggling of goods, and seeks to analyze them.

To do this, Frontex works with an intelligence-led approach, very much like the European police authority, Europol. The intelligence-led investigative method ("intelligence-led policing") was developed in the USA in the 1990s. This method attempts to identify the risks of law violations through a detailed analysis of hazardous situations in an effort to hinder criminal activity instead of reacting to the law violations themselves. Instead of just stopping illegal border crossings, Frontex seeks "to identify the 'risks' for anything that might affect border security" through thorough data collection and analysis.<sup>2</sup>

Moreover, Frontex sees its role in connecting the national authorities responsible for controlling external borders in the EU with the "world of research and industry". This means bringing companies that develop surveillance and control technology together in cooperation with border management experts and initiating further research on border management.

#### Frontex's Tasks

Frontex's tasks, according to the Frontex Regulation, include:

- a. Coordination of Member States in joint operations in the field of external border management;
- b. Assisting Member States in training of national border guards, including the establishment of common training standards;
- c. Carrying out risk analyses;
- d. Following up on the developments of relevant research for the control and surveillance of external borders;
- e. Assisting Member States in circumstances requiring increased technical and operative assistance at external borders;
- f. Providing Member States with the necessary support in organizing joint return operations.

#### (2) Coordination

As Frontex itself does not exercise police authority, the agency coordinates the deployment of the Member States' border police. The European Patrols Network is an example of this. To coordinate the border management efforts in the Mediterranean Sea, Frontex has determined which institutions and organizations in the EU Mediterranean countries are in charge of border management. Fifty different authorities connected to 30 different ministries are involved in this, including not only the police and Ministry of the Interior, but also customs, fisheries authorities and the coast guards. Frontex has brought all of these institutions together and supports them so that they are better able to coordinate their efforts.

#### (3) Support

On the basis of the risks determined through analysis, Frontex then plans the assistance of the national border police forces sent by the EU Member States. The border management agency also regards the efforts to save refugees from drowning on the high seas as one of its responsibilities (for a criticism of Frontex, see below).

Moreover, Frontex engages in the training of border guards. Together with the Member States, Frontex develops training curricula and then trains the trainers who then function as "multipliers" and pass on the training to others. This is to ensure that the border police officers are sufficiently prepared when a joint operation becomes necessary.

### The Structure of Frontex

Frontex's headquarters is located in Warsaw and consists of three major departments: Operations, Capacities and Administration. In the Operations department, the joint efforts of the border police forces are coordinated. The Capacities department is in charge of research and training, and the Administrative department is responsible for finances, personnel and IT.

#### How Large is Frontex's Budget?

Since its founding, the EU has almost continually increased Frontex's budget. Between 2009 and 2013, the yearly budget leveled off at between 90 and 118 million euro. In comparison, Europol's budget climbed from 49 million euro in 2002 to 91 million Euro in 2010, but since then has been reduced again down to 83 million euro in 2013.

#### Why is Frontex an Agency and not a Border Police Force?

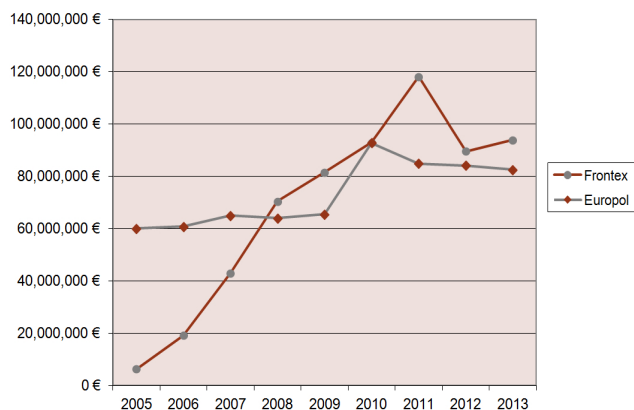
Put simply, Frontex is not a European border police force because the EU is not a state. A police body's tasks, among others, include the avoidance and prevention of crime. Because the police act on behalf of the state as the "long

**Table 1: Selected Frontex Operations in 2012**

Name	Aim	Region	Host Country*	Participating Countries	Budget	Duration
Hera	Improving cooperation with Senegalese and Mauritanian authorities in order to combat illegal immigration from North Africa to the Canary Islands.	Atlantic	ES	IS, LU	€ 3,160,000	From 2012-07-02 to 2012-12-15
Hermes	Combating illegal migration flows from Tunisia, Libya, and Algeria towards the Italian islands of Lampedusa, Sardinia and Sicily.	Mediterranean	IT	FI, FR, IS, LT, PL, PT, AT, RO, CH, ES, GB	€ 4,099,178	From 2012-07-02 to 2013-10-30
Aeneas	Combating illegal migration from the Ionian Sea towards Italy (Apulia, Calabria) from Turkey, Egypt.	Mediterranean	IT	DK, DE, FI, FR, GR, IS, IT, LU, PL, PT, RO, SE, SK, ES	€ 10,047,054	From 2012-05-16 to 2012-10-31
Inaldo	Combating illegal immigration from North Africa and Sub-Saharan, resulting from a cyclical seasonal increase as well as protracted crisis in Mali.	Mediterranean	ES	BE, FR, IS, IT, LU, MT, PT, SK	€ 4,812,935	From 2012-05-16 to 2012-10-31
Minerva	To strengthen border control during the summer season (increased traffic) at the southern coast of Spain.	Mediterranean	ES	AL, BE, BG, DE, EE, FI, FR, GE, GR, IT, LT, ME, NL, NO, AT, PT, RO, SE, CH, SK, SI, CZ, UA	€ 751,034	From 2012-07-13 to 2012-09-15
Jupiter	To increase the effectiveness of border control measures at the Eastern EU borders. Additionally, to combat trafficking in human beings.	EU	EE, FI, LV, LT, PL, RO, SK, HU	BG, DE, FR, LU, NL, AT, PT, SI, ES, CZ, UA	€ 187,510	From 2012-07-11 to 2012-08-02
Neptune	To tackle irregular migration flows from the West Balkans to the rest of the EU.	Western Balkans	SI	BA, BG, FR, HR, ME, NL, AT, PL, RO, CH, RS, SK, ES, CZ, HU	€ 134,690	From 2012-04-04 to 2012-04-26
Euro Cup	To enhance border checks during a period of intensified border activity. Additionally, to reduce risks to the tournament and manage people flow.	EU	DE, IT, NL, PL, PT, ES, CZ, UA	BG, BE, DK, EE, FI, FR, GR, IE, HR, LV, LT, AT, RO, RU, CH, SE, SK, SI, HU	€ 783,019	From 2012-06-04 to 2012-07-02

\* Member State that initiated the operation

Source: Frontex: Archive of operations 2012, <http://frontex.europa.eu/operations/archive-of-operations/?year=2012&region=&type=&host=>

**Figure 1: Budget of Frontex and Europol**

Sources: <http://frontex.europa.eu>; [www.europol.europa.eu](http://www.europol.europa.eu)

arm of the law”, they are also allowed to exercise force on citizens when preventing crime. This legal relationship between state and citizen as such does not exist for the EU. The EU has specific competencies, however may not apply the use of force on EU citizens in fulfilling those competencies. Because of this, there are no European border police. Instead, Frontex is the administrative agency that implements the (limited) competencies that the EU has in border policies.

### But There are in Fact European Border Guards!

Yes and no. There are “European Border Guard Teams” (EBGT) whose composition and nature resemble that of the international police missions which also act “under the EU flag” and are composed of police officers from various Member States.

This works exactly the same way with Frontex. Although the border police officers join forces, they are still police officers from the individual EU Member States. Therefore, during such a joint mission, the law that is in effect is that of the state in whose territory the operation takes place. For example, when German and French police officers support their Greek counterparts, they do so according to Greek law. This means, however, that only the Greek police officers are allowed to exercise coercive measures such as the use of firearms because the mission takes place on Greek territory and the police officers from the other countries are only “guests”.

### Why does the EU have a Border Regime and Frontex?

This question cannot be clearly answered because there are diverging views on the usefulness and tasks of Frontex. The creation of a border regime with its own agency is most easily understood with a look into the past.

## The Development of a European Border Regime

### In the Beginning was Freedom of Movement

In the 1980s, the European Community (at that time it was not yet a “Union”) found itself in crisis. Europe-wide, there was a rapid dwindling of the population’s approval of European unification, while the integration simultaneously stagnated. This attitude also caused economic loss in the EC States. Paolo Cecchini, then a member of the Commission, calculated these losses in his report on “the costs of Non-Europe”. He listed the economic damages of the EC that were emerging as a result of each national state continuing to work within its own economic system. Altogether, Cecchini estimated the costs to be 4.3 to 6.4 percent of the gross domestic product of the EC Member States. Businesses incurred approximately 8 billion Ecu<sup>3</sup> alone in expenses through border formalities with passport control and internal administrative costs, which equated to two percent of the value of the goods concerned.<sup>4</sup>

In order to drive European integration further, the then German chancellor, Helmut Kohl, and the then French president, François Mitterrand, decided to complete the existing economic integration through a political component and tackle the “Europe of citizens”. Three of the four fundamental freedoms of the internal market (free movement of goods, capital, and services) were already in practice; but an important freedom, the free movement of EU citizens, had not at that point moved past lip service. So in Saarbrücken in 1984, Kohl and Mitterrand decided to abolish passport controls on the German-French borders and to enable the free movement of persons between their countries.

Convinced by the significance of this step, the Benelux States (Belgium, the Netherlands, and Luxembourg), who had already abolished passport controls between their countries in 1960, indicated their desire to join Germany and France. A year later, in 1985, they signed the well-known “Schengen Agreement” in the small village of Schengen in Luxembourg. In this agreement, the five states agreed to stop passport controls at their common borders. The signatory states of this agreement have been since called the “Schengen states” and over time, the number of Schengen states has increased.

### Freedom of Movement, Only with More Security

No sooner had Kohl and Mitterrand’s decision become known, than the Ministers of the Interior from both countries and their subordinate agencies raised security concerns. They were afraid a security deficit would occur if the police were to stop passport controlling on the German-French border. Every criminal would be able to cross the border with no difficulty. Against this backdrop, the German Minister of the Interior, Friedrich Zimmermann, stressed in 1986: *“I am in agreement with the interior ministers of the*

*EC states and with my colleagues in the federal states that in the interests of security for our citizens, the second step may not be made before the first when it comes to the easing and removal of border controls. In view of the present threat, it is the opinion of all responsible ministers for internal security that the border controls must occasionally be made even stronger.*" The interior ministers negotiated that the abolition of passport controls may not be implemented until sufficient measures were undertaken to compensate for the perceived security deficits.

For the implementation of the first Schengen Agreement, Germany, France and the Benelux States concluded the so-called Schengen Convention on 19 June 1990.<sup>5</sup> In this agreement, the main topic was the formalization of the so-called compensatory measures for the reduction of the security deficit which was feared due to the removal of border controls. The compensatory measures put in place included measures on the security of the Schengen external borders, common entry regulations for third-country nationals and the opportunity to fight international criminal activity.

Although only intended to compensate for the freedom of movement within the Schengen area, the Schengen Convention marked the beginning of European immigration control policies, whose development cannot even today be regarded as complete. The core of these compensatory measures was and is, however, the Schengen Information System (SIS). In the Schengen Information System, all data (among other things) is stored for the search of persons, including captured migrants who entered the Schengen area illegally and can be accessed by all police stations Schengen-wide.

### The Schengen Dialectic

In 1995, the decision makers of the Schengen signatory states<sup>6</sup> agreed that the requirements for the opening of the internal borders were given. The controls at the common border crossing points were ceased. However, the "green" and "blue" borders continued to be surveilled to compensate for the feared security deficit, at some points even more strongly than before. What began as compensatory

### Schengen States 2014

Austria, Belgium, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland (non-EU member), Italy, Latvia, Liechtenstein (non-EU member), Lithuania, Luxembourg, Malta, the Netherlands, Norway (non-EU member), Poland, Portugal, Slovakia, Slovenia, Spain, Sweden, Switzerland (non-EU member)

measures for the abolition of border controls in the middle of the 1980s developed into a dynamic policy field in the EC. It is the double focus of border policies that makes them so complex. The policies are supposed to both hinder illegal migration and fight criminal activity. In the following, the link to migration controls is primarily addressed.

### Two Tendencies: Externalization and Technologization

European border policies developed along two dimensions. Firstly, an externalization can be observed, that is the geographic and functional expansion of the surveilled border areas. Secondly, the "human" factor in the control and surveillance of the borders, that is, personnel controlling the borders, is increasingly complemented with modern technology. Both tendencies are analyzed in the following sections.

### Externalization: From a Line to an Area, from Entry Control to Exit Control

With the development of the Schengen Agreement, the ministries in the Schengen states responsible for border management have gradually expanded the border line to become a border area. This means that the borders are no longer only surveilled at the line of demarcation between two states, but that the surveillance reaches further into the interior of the country and in doing so becomes increasingly less directly concerned with the border line.

### Schengen, EC or EU?

Because the European Community (EC) did not succeed in establishing its own passport union in the 1980s, Germany, France and the Benelux States withdrew and concluded an international treaty in Schengen in 1985. An associated implementation agreement (the Schengen Convention) followed in 1990.

Independent from Schengen, the European Community (EC) turned into the European Union (EU) in 1993.

In 1998, the Treaty of Amsterdam assumed the Schengen Agreement and all associated treaties under EU law. Nevertheless, the EU is not the same as Schengen. Some EU countries have not signed the Schengen Agreement (for example the United Kingdom and Ireland) while there are other countries which are Schengen members but do not belong to the EU (for example Norway, Iceland and Switzerland).



In 1998, the Austrian presidency placed this development on the agenda and suggested the concept of “concentric circles”.<sup>7</sup> Although this concept was not adopted, its basic idea of the Schengen states being a core with high border security influenced the configuration of European border policies. Neighboring states and other more distant states group around this core like concentric circles, each acting as a buffer for the core and securing it.

### Freedom of Movement within the “Hard Core”

The Schengen states stand in the center of European border policies — persons are not controlled at their common border checkpoints. However the Schengen external borders are intensively surveilled according to common stan-

#### Surveillance – Controls – Security: Is it all the same?

Generally, there is a difference between controls and surveillance. People, their documents and goods are *controlled* at border crossing stations, when entering by car at border checkpoints, by airplane at the airport or by ship in the harbor.

The border areas between border checkpoints are *surveilled*. These areas are commonly known as “green borders” (forests, fields) or “blue borders” (sea). The goal of surveillance is the avoidance of people “bypassing the border checkpoints” (Schengen Borders Code).

Together, controls and surveillance are referred to as *external border security* or *external border management*.

Before border controls were abolished, the border lines between two Schengen countries were clearly visible as there were fences or walls. After the border controls were abolished, the fences and walls were also removed. However, the national borders themselves remained and were surveilled.

dards. The legal basis for this is the so-called Schengen Borders Code (Regulation 562/2006). This piece of legislation applies not only for citizens of the Schengen or EU states, but for everyone legally staying in this core, that is, in the Schengen area.

The freedom of movement of persons without controls was originally at the heart of the Schengen cooperation from which border policy has developed. This freedom of movement without controls is broadly considered one of the most important achievements of European integration. In recent years, however, it can be observed that this achievement has been in danger. In 2011, several Schengen states have demanded to facilitate the reintroduction of controls at their common borders. The incident that spurred this discussion was that Italy had given a large number of residence permits on humanitarian grounds to

refugees who had crossed the Mediterranean, which enabled them to then travel further on into France.<sup>8</sup>

### Border and Immigration Control Measures in the “Extended Core”

Surrounding the “hard core” is the extended core, which includes the EU states that are not members of the Schengen Agreement. These are on the one hand, states that do not wish to participate such as Great Britain or Ireland, and on the other hand EU states that have not (yet) joined the Schengen territory, such as Bulgaria, Romania, Cyprus and the new Member State, Croatia<sup>9</sup> (as of July 2013). There are still border controls for people crossing into these EU countries. At the same time, these states largely carry out the measures designed for a common security of EU external borders.

### Entry Conditions and Control Measures

The EU differentiates categories of incoming third-country nationals according to the form and legal status of their entry:

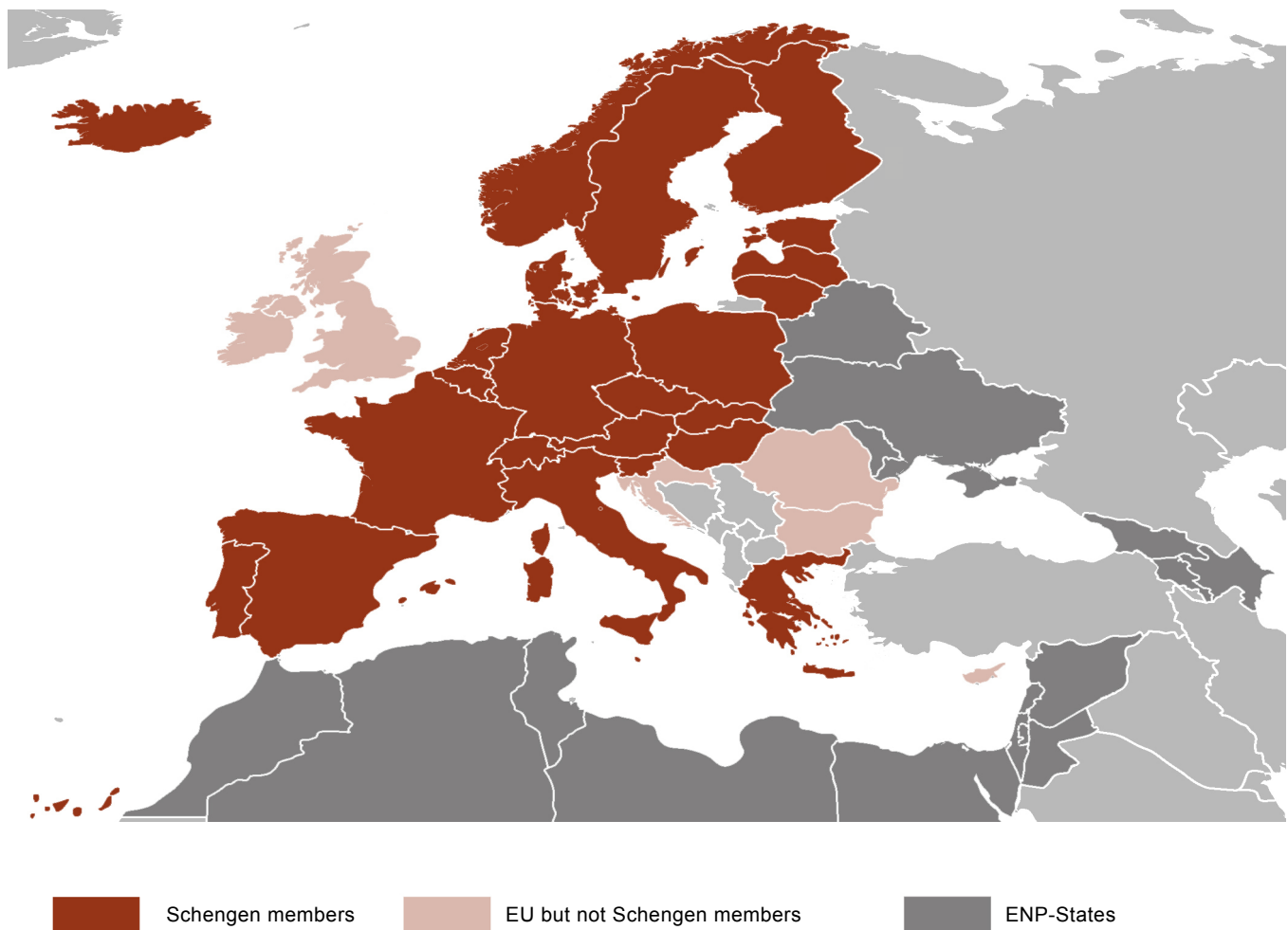
- business travelers or tourists, who, just like EU citizens, are allowed to enter and stay for 90 days *without prior authorization*, for example citizens of Singapore, the USA or Chile;
- business travelers or tourists who need entry authorization (a *visa*);
- persons who flee to the EU because their safety is threatened and they therefore request protection (*asylum*);
- persons who come from a state obliged to obtain a visa and anticipate that they will not be granted one and therefore enter *illegally*.

The EU allows special control measures for each of these groups, which are explained in more detail in the following paragraphs.

#### Visas

In order to be able to keep the internal borders open, the EU states agreed on common conditions to entry into their common territory, that is, in EU territory. For one, this includes a determination of those states whose citizens must apply for a visa if they wish to enter Schengen/EU territory as well as a list of those who are exempt from the visa requirement.<sup>10</sup>

From 2004 onwards, the EU had the Visa Information System (VIS) developed in order to check whether a person has already applied for a visa before. The VIS serves as a hindrance for so-called “visa shopping”. Visa shopping occurs when nationals from third countries apply for visas in multiple EU countries as a result of previously being refused a visa in another EU Member State. The VIS, however, can be used not only by immigration offices such as the German Federal Office for Migration and Refugees (BAMF), but now also by security agencies such as the police thanks to the Decision “concerning access for consultation of the VIS by designated authorities of Member

**Figure 2: Schengen states, EU Member States and states that are included in the European Neighborhood Policy (ENP)**

Source: Illustration is an adaptation of: Wikimedia Commons (<http://commons.wikimedia.org/wiki/File:BlankMap-Europe-v4.png>), Author: Roke, file licensed under: <http://creativecommons.org/licenses/by-sa/3.0/deed.en>

States and by Europol for the purposes of the prevention, detection and investigation of terrorist offences and of other serious criminal offences" (VIS Decision) which entered into force on 1 September 2013.<sup>11</sup>

### Asylum

People who are persecuted in their country have the right to apply for asylum in the EU (Directive 2011/95/EU).<sup>12</sup> The decision on whether an asylum seeker is granted asylum is made on an individual basis. In 1990, the *Dublin Convention* specified which EU country was responsible for processing an asylum application, at which time the EC countries agreed that the country into which the asylum seekers first entered would assume responsibility for the processing.<sup>13</sup> This arrangement was intended by the EC to help end the "asylum shopping" that was observed in several EC Member States.

To determine whether an asylum seeker has already previously submitted an application, the EC implemented the *EURODAC* database (lat. *dactylos* — finger), which stores the fingerprints of every asylum seeker. If a person

submits an application for asylum, he or she is required to be fingerprinted. The authorities are then able to determine through the system whether that person has already filed for asylum in any other EC (today EU) country. If this is the case, or if the authorities can prove that the asylum seeker entered the EU via another country, then he or she is "transferred" back to that country. An exception here at the moment is Greece. The German federal government decided in 2011, before the Federal Constitutional Court had decided on a pending claim, not to send asylum seekers that had entered via Greece back for the asylum process given the inhuman conditions that the asylum seekers had to live under in Greece.

### Border and Immigration Control Measures in the "Neighboring Zones"

All neighboring states of the EU as well as all non-EU countries are designated as third countries. This includes countries with accession prospects as well as those without. While safe third countries and the country of origin regulation are measures of immigration control,<sup>14</sup> the EU

also directly involves its neighbors in border management and in doing so creates a buffer zone. The idea behind this is to win over its neighbors to control and surveil their borders with the EU according to EU standards. The neighboring countries are supposed to prevent the illegal entry of migrants and criminals who try to enter the EU through these third countries. This involves a kind of trade in which both parties to the treaty perform a service. The service returned by the EU looks differently depending on the status of the neighboring country:

*Border regimes with neighbors with the prospect of accession*

For EU neighboring countries with the prospect of accession, this trade is clearly defined. Having the prospect of accession means that the country receives signals from the EU that it will one day have the opportunity to become an EU Member State.

Under the term pre-accession instruments the EU and its Member States offer the accession candidates numerous instruments, or forms of assistance for the preparation of their accession to the EU. These instruments are composed of monetary support, competencies, and facilities. Using the example of the last large EU enlargement in 2004, this system of instruments can be briefly outlined as follows:

**Monetary support:** Accession states were supported by the EU through the PHARE program<sup>15</sup>. In addition, between 2004 and 2006 the acceding states received 961 million euro of special funding known as the Schengen Facility to upgrade their border controls.<sup>16</sup>

**Capacities:** The EU provides the means with which the EU Member States can support candidate states in preparing for accession through so-called Twinning. These Twinning measures are partnerships of an EU country with

### Application for EU Membership

According to the Treaty on European Union, every European country that holds the values of the EU may submit a membership application (Art. 49). To be accepted by the EU, an “accession candidate” must implement all applicable EU regulations and measures (*acquis communautaire*). Border policies have been included in the *acquis communautaire* since 1999. This means an accession candidate may not accede to the EU before it can first prove that its external borders are secured according to the current EU standards in addition to all other requirements that must be fulfilled.

a candidate country to support the building up of border security according to Schengen standards. The measures are chiefly made up of equipment assistance (e.g. devices and facilities) and training, of which EU countries have made active use and not least, this has given them the opportunity to make their own security concepts, methods and technology accessible to the central and eastern European countries, all which differ considerably from those of the other EU countries.

**Facilities:** Through the program “Argo”, the EU supported not only the training of border management experts, but also the construction of operative centers for the securing of the border.

Germany was especially involved in the events leading up to the “large round of enlargement” of ten central and eastern European countries<sup>17</sup> in 2004. Between 1992 and 2004, the federal government supported Poland in strengthening its border security with a total of 6 million euro.<sup>18</sup>

### Schengen Facility for Bulgaria and Romania

#### Article 32

(1) A Cash-flow and Schengen Facility is hereby created as a temporary instrument to help Bulgaria and Romania between the date of accession and the end of 2009 to finance actions at the new external borders of the Union for the implementation of the Schengen *acquis* and external border control and to help improve cash-flow in national budgets.

(2) For the period 2007-2009, the following amounts (2004 prices) shall be made available to Bulgaria and Romania in the form of lump-sum payments under the temporary Cash-flow and Schengen Facility:

(EUR million, 2004 prices)

	2007	2008	2009
<b>Bulgaria</b>	121.8	59.1	58.6
<b>Romania</b>	297.2	131.8	130.8

Source: Treaty concerning the accession of the Republic of Bulgaria and Romania to the European Union, <http://eur-lex.europa.eu>



### *Border Regime with Neighbors without Prospects of Accession: European Neighboring Policies and Mobility Partnerships*

Firstly, there are also European countries that do not (yet) have any prospect of accession (for example Belarus, the Ukraine, or the Republic of Moldova) and then there are the southern neighboring states of the EU--the Mediterranean countries<sup>19</sup>. The EU cannot return service for these countries in the form of an accession prospect, so instead offers these partners a “privileged relationship”.

These “privileged relationships” were initially established in the so-called European Neighborhood Policy<sup>20</sup>. This means that the EU grants financial support to these countries in order to enable them to:

1. Set up democratic structures and good governance,
2. Reform laws and establish capacities in the administration, and
3. Implement measures for the reduction of poverty.

Furthermore, the EU makes agreements with these states to facilitate the issuances of visas for their citizens and to deepen trade relations with them.<sup>21</sup> In return, these neighboring countries intensify controls at their own external borders and commit to taking back third country nationals who have been expelled from the EU (readmission agreements).

### **Surveillance of the Entire Mediterranean Region: EUROSUR**

For the time being, the last stage of the geographic expansion of border surveillance is the EU's plan to monitor its external borders in the Mediterranean Sea with satellites from space. The surveillance system is called Eurosur and is managed by Frontex. Since December 2013 it has been operable in EU states with external borders shared with Eastern Europe or on the Mediterranean Sea. In the other countries (Germany, among others) it will begin operation a year later.<sup>22</sup>

Eurosur is a pan-European border surveillance system that, according to the EU, pursues three objectives:

1. Reduce the number of illegal entries into the EU,
2. Reduce the number of migrants who drown on their passage over the sea, and
3. Increase the internal security of the EU by preventing serious crime at the external borders of the Schengen area.<sup>23</sup>

Frontex will use Eurosur to collect data from the satellite surveillance of EU borders as well as ship reporting systems such as the Automatic Identification System (AIS) and the Vessel Monitoring System (VMS) as well as from both manned and unmanned drones.<sup>24</sup> Every EU country is supposed to establish a national coordination center to gain an overview of the situation at its own external borders. Frontex takes all the national overviews and data to then create a *European Overview* which contains information on “incidents concerning irregular migration, transnational crime and crisis situations”.<sup>25</sup> Moreover, Frontex puts together a “common pre-frontier intelligence picture”. The “pre-frontier” area refers to the geographical area on

the other side of the external borders of the EU Member States; an area that is not included in a national border surveillance system.<sup>26</sup>

The estimated costs for Eurosur for the period 2014-2020 run at 339 million euro.<sup>27</sup> Eurosur is a manifestation of the aforementioned trend in immigration controls towards “intelligence-led” risk analysis. The EU will use Eurosur to evaluate all movements of people in order to generate risk overviews from the data.<sup>28</sup>

## **Technologization**

In addition to the externalization (that is, the shifting beyond EU borders), the European border regime is also characterized by technologization. While today the majority of people crossing EU external borders are still personally checked by border guards, this task should be increasingly taken over by computer technology in the future. Falsified documents should be recognized without mistake and the time needed to check each person should be shortened.

Technology has always been used to control and, above all, monitor borders. At the end of the 1980s and beginning of the 1990s, CO<sub>2</sub> measuring devices, document and baggage test equipment, and telephoto equipment were used at EU border crossing points, while thermal imaging devices and night vision devices were increasingly used for the monitoring of the “green borders”.

With the use of *biometric data*, a new era in border management began. In 2004, the EU decided to save personal data, the photo and fingerprints of citizens of EU Member States on a small chip integrated in the passport (an “e-pass”).<sup>29</sup> The goal is to be able to carry out the controlling of entry and exit movements to and from the “EU territory” more quickly and securely.

In order to participate in automated border controls with this “e-pass”, a person must have previously registered with the police. At the border checkpoint the passport is scanned, followed by the person's iris. At entry these scans are compared with the data on the chip inside the passport. If both scans match and there are no travel restrictions in effect for the person in question, he or she may enter.

The EU is now planning to unify these national automatic border control systems Europe-wide, which would operate under the concept “*Smart Borders*”. With this unification, the EU pursues two parallel goals:

### **Registered Traveler Programme (RTP)**

One goal is to decrease waiting times at the external borders. To achieve this, non-EU citizens who often travel to the EU have the possibility of registering themselves biometrically in order to be able to cross the border more quickly. This plan is called the “Registered Traveler Programme” (RTP) and was suggested by the European Commission in February, 2013, but as of the September 2013<sup>30</sup> deadline, had not yet been adopted by the Council or Parliament.

## Entry Exit System (EES)

Secondly, the EU intends to make its outer borders more secure to prevent irregular migration by developing a system which will simultaneously reduce several forms of illegal migration. The so-called Entry Exit System (EES)<sup>31</sup> is to better monitor and, as far as possible, to prevent unlawful border crossings, meaning preventing those people crossing borders without entry documents or with falsified documents.<sup>32</sup> When applying for a visa, personal data as well as travel information are entered into a central information system to which all responsible authorities have access. Also recorded in the system is the visa's expiration date (a visa is usually valid for three months), indicating when the person must leave EU territory.

This leads to two forms of illegal migration. Until now the majority of so-called "illegal" or "irregular" migration has been made up of people who stayed in the EU past the expiration date of their visas, termed "overstayers". After the expiration of their valid visas, their residence status changed from legal to illegal. The authorities have had difficulties in identifying these "overstayers", but this is supposed to function better under the new system. As soon as a person stays longer than he or she is permitted, the system sends a warning to the responsible immigration or police authority. How the authorities are to proceed has not yet been completely elaborated on.

Frontex will have access to the Entry Exit System (EES) to collect and analyze data on people recorded in the EES for statistical and scientific purposes. The operating costs

for both systems (RTP and EES) have been calculated by the Commission to be between approximately 163 and 214 million euro annually (plus a onetime cost of between 206 and 214 million euro for its establishment<sup>33</sup>). In the meantime, concerns about the necessity, effectiveness and efficiency of such a comprehensive and expensive system have been raised in the European Parliament.<sup>34</sup>

## Border Economies

The political goal of managing the external borders of the EU called a wide range of actors who offer their services either in the managing of external borders or to refugees and asylum seekers who intend to enter the EU. As a consequence, real competition has developed in this field.

Due to the impermeability of the border, many refugees are "stranded" at the external borders of the EU. Among these refugees are those who classify as refugees under the Geneva Convention on Refugees as well as people who are commonly referred to as "economic refugees". A demand for cheap illegal employment has consequently developed in the EU as well as in transit countries.<sup>35</sup> Parallel to this, a smuggling market developed, in which smugglers bring refugees across the border in exchange for money. In 2012, it cost around 1,000 euro per person to be smuggled from Tunisia to Lampedusa. So-called "guarantee" or "all inclusive" smuggling is considerably more expensive<sup>36</sup> because the smugglers make as many attempts as are necessary to bring the refugees into the

**Table 2: Projects on border surveillance supported by FP7's Security Research budget**

Name of Project	Mission/Aim	Budget	Agent
AMASS	Sea border surveillance	3,580,550 €	Carl Zeiss Optronics GmbH, Germany
EFFISEC	Integrated security check points	10,034,837 €	SAGEM SÉCURITÉ, France
GLOBE	Global border environment	999,891 €	TELVENT INTERACTIVA S.A., Spain
OPARUS	UAS border surveillance	1,188,313 €	SAGEM DÉFENSE SÉCURITÉ, France
SEABILLA	Sea border surveillance	9,843,601 €	SELEX SISTEMI INTEGRATI SPA, Italy
TALOS	Land border surveillance	12,898,332 €	PRZEMYSŁOWY INSTYTUT AUTOMATYKI I POMIARÓW, Poland
WIMA <sup>2</sup> S	Area airborne surveillance	2,737,169 €	THALES AIRBORNE SYSTEMS S.A., France
<b>Total:</b>		<b>41,282,693 €</b>	

UAS: unmanned aircraft system

FP7: Seventh Framework Programme for Research and Technological Development

Source: European Commission (2010), Security Research Projects under the 7th Framework Programme for Research. Investing into security research for the benefits of European citizens, Brussels.

[ftp://ftp.cordis.europa.eu/pub/fp7/security/docs/securityresearch\\_catalogue2010\\_2\\_en.pdf](ftp://ftp.cordis.europa.eu/pub/fp7/security/docs/securityresearch_catalogue2010_2_en.pdf)

destination country. Many smugglers are not involved in large networks of organized crime, but are local residents. Human smuggling has developed into a profitable business for fishermen in the Mediterranean - whose incomes have decreased over the years due to the overfishing of the sea - because they possess the necessary equipment for smuggling with their boats.

Competition has also erupted amongst those actors who campaign for the rights of refugees. For example, established on the Italian island of Lampedusa are various non-governmental and governmental organizations who "manage" mobility, offering the EU their services in the receiving and returning of refugees or those who research flight and immigration on-site.<sup>37</sup> The local population also profits from the construction and maintenance of reception centers as it creates jobs and generates development funds from the EU (for example from the Argo program).<sup>38</sup>

### Border Management Industry

The by far largest legal market in connection with EU borders and their security is served by industries that offer surveillance hardware and software. The existing information systems (SIS, VIS, EURODAC) first had to be developed and must be maintained after being put into operation. New technologies (EES, RTP, EUROSUR, etc.) are currently being developed. The required systems, applications and devices range from satellites to biometric scanners, patrol boats and radio devices. Consequently, an entire border management industry branch has developed.

Bitkom, a German association which represents a large number of companies that produce software and hardware for border security, demands that:

*"Along the migration process, transfer points are to be identified and appropriate measures for migration management implemented at these points. This new process of understanding must be rooted both nationally and internationally and be supported technologically within migration policies. The necessity to confront the increasing technological facilities of smugglers and human traffickers with adequate and efficient surveillance mechanisms is pivotal. This reduces the total costs of border management in the medium term and reduces irregular migration in the long term."*<sup>39</sup>

Furthermore, linking the "world of research and industry" with EU Member States' national authorities responsible for controlling external borders is part of what Frontex sees as their responsibility (see above).<sup>40</sup> One of the ways Frontex seeks to achieve this goal is to regularly organize conferences and fairs.<sup>41</sup>

An important player in this area is the EADS Group, which is Europe's largest aerospace company as well as an important defense supplier. EADS is specialized in border management technologies, for example having equipped Romania with a billion euro border security system in preparation for accession into the Schengen area.<sup>42</sup> Romania, like all accession countries to the EU, received financial support under the "Schengen Facility" to bring its external borders up to EU standards. Other examples in-

clude the digital radio network, TETRA, or the Eurocopter (helicopter) built by EADS, both of which are employed not only at the external borders of the EU but also along US borders.

In addition, a part of the EU research funds is dedicated to the development of new technologies for the management of the external borders. Between 2007 and 2010, around 41 million euro were given to the Seventh Framework Programme for Research for research projects on border security.<sup>43</sup> For the following period until 2020 the EU plans to expand research particularly on border security:

*"The Commission intends to make full use of the PCP instrument"<sup>44</sup> set out in Horizon 2020 and devote a significant part of the security research budget on this instrument. This novel funding approach should bring research closer to the market by bringing together industry, public authorities and end users from the very beginning of a research project. The Commission considers that border security and aviation security are the most promising areas for undertaking PCP."*<sup>45</sup>

### Is it Worth it?

There is no exhaustive compilation of all costs spent for border security. There is a budget item labeled "external border funds", but only a part of the money for external border security is listed under this expense category. Not included are support funds for candidate countries that still have to develop their border security, the Twinning measures in third countries, research funds, funds that are paid to transit states for their immigration controls, etc. Other significant costs not included are those for immigration control measures--visas and asylum.

The known figures alone cast doubt for politicians, researchers and human rights organizations on whether the invested sums still stand in a justifiable cost-benefit ratio. There are no calculations for any potential alternatives that would exist. Estimations from Frontex, on which the majority of surveillance measures in the number of identified "overstayers" rest, show definite leeway for alternative interpretation, as shown in this quote from the Frontex homepage:

*"According to Frontex' risk analysis, as many as 45% of Europe's 271 million entry/exits per year are from countries 'at risk' of being an irregular migration source. If only one percent of these 121 million passengers are migrating irregularly, that means as many as 1.2 million irregular migrants enter the EU every year through its airports. For this reason alone air operations present unique challenges."*

### On the Other Side of the Border Fence

The tighter the borders become, and the more intensely they are monitored by both technology and personnel, the higher the number of migrants who die trying to cross these borders. The United Nations High Commissioner for

Refugees (UNHCR) estimates that with a count of 1,500 deaths in 2011, more refugees than ever have drowned on their flight across the Mediterranean Sea or dehydrated on boats.<sup>46</sup> These figures, however, represent only recorded deaths and incidents. No one knows just how many corpses have not been found because they sank in the sea.

Human rights organizations regularly heavily criticize the practice of border surveillance. Refugees that made it into the EU have reported to the non-governmental organization Human Rights Watch that uniformed officials from Italy and Libya forced them to return on open seas in their unseaworthy boats, whereupon arrival in Libya they were taken into camps.<sup>47</sup> Similar events regularly find their way into the press.<sup>48</sup>

In 2003, Italy made an agreement with Libya (at that time still ruled by Muammar al-Gaddafi) which attracted a lot of interest and attention.<sup>49</sup> This cooperation was continued by the EU in 2004, shortly after they lifted a lengthy embargo. The EU financially supported Libya, among others, through the AENEAS program, which had around 120 million euro in available funds between 2004 and 2006. The goal of AENEAS was “to better regulate migration movements”, to which the technical upgrade of border surveillance, training of border personnel and the support of “voluntary return” of people living irregularly in Libya contribute. The EU was criticized regarding this agreement that it not only paid for the immigration controls but that it did business at all with rulers in countries which the EU itself had imposed an embargo<sup>50</sup> on until 2004.<sup>51</sup> Criticism of the EU’s cooperation with Libya intensified in 2010-2011 when Libya got even more involved in refugee defense at the wish and financial support of the EU.<sup>52</sup> In February, 2012, the European Court of Human Rights eventually condemned the actions of the Italian coast guard, who had picked up over 200 people on open sea and sent them back to Libya without checking their status as refugees in 2009. Torture awaited the refugees on their return to Libya.<sup>53</sup> The verdict from this case will have further consequences for Frontex’s efforts.<sup>54</sup>

However, not only are the human rights and values of refugees sometimes ignored in the process, but the rights of EU citizens are being surrendered with the increasing automation of border crossing abuse. The information in passports and visas is limited to names, addresses, birth-dates, height and eye color, but the new biometric technology allows for far more information to be saved. Access to this data has primarily been the Achilles heel of every information system, and not just since the NSA scandal. When the borders are monitored via Eurosur, it is not only the migrants entering irregularly that are monitored, but everyone else as well, which puts elementary data protection rights in question.

## Is Migration a Risk?

In the introductory description of Frontex’s tasks and duties, the term “risk analysis” appears several times. It may appear to some that it is completely normal for a border

protection agency to analyze risks. Others, on the other hand, may find this confusing. So what risks does Frontex try to analyze exactly?

The EU border management agency Frontex views irregular immigration as as great of a risk as transnational crime, both being risks with which the EU has to deal. The majority of its work is therefore focused on the analysis of immigration risks and the development of appropriate strategies for the prevention of irregular immigration. In its 2012 work program, Frontex put it in these words:

*“Joint Operations and Pilot Projects at Sea Borders will be, as in earlier years, the recipient of the biggest share of Frontex’ budget allocations. An amount of 25.0 M € has been allocated to Sea Borders sector in order to tackle irregular migration flows on routes identified by risk analysis.”*

The Ministers of the Interior of EU Member States portray migration as less of a risk than Frontex, but rather emphasize the dangers of entering irregularly. In the summer of 2013, after the refugee catastrophe near Lampedusa, the German Minister of the Interior, Hans-Peter Friedrich, stated:

*“We must take strong measures to reduce the risk for migrants on their sea voyage to Europe. Frontex is there for this reason, to monitor the sea borders, having rescued almost 40,000 people in distress at sea in the last decade.”*

The reasoning of the Minister of the Interior, who represents the opinion of the majority of the EU Member States in this regard, is that Frontex primarily serves to rescue refugees who come into danger on the high seas. Frontex was in fact created and given its assignment by the same Ministers of the Interior or their predecessors.

## Alternative Points of View

To the same extent that there is a call for ever more control and surveillance technology, alternative views of immigration as a risk are neglected. The conceptual anticipation of possible illegal immigrants is enough for the justification of millions of euro in investments into the exploration of a hermetically surveilled “area of freedom, security and justice” whose growth in alleged security inevitably involves a loss of freedom in the sense of informational self-determination. This is an observation also made in other areas by risk analyst Ulrich Beck:

*“It is unimportant whether we live in a world that is ‘objectively’ more secure than all those previous — the staged anticipation of destruction and catastrophes obligates us to preventive action.”<sup>56</sup>*

Is this now a plea for the immediate opening of all borders? Debates on border management usually result in this question. A research group for UNESCO investigated the question and came to some surprising results.<sup>57</sup> They determined, for one, that border security seeks to solve problems that there would not be without borders, namely illegal entry and smuggling. They estimate the actual “success” of border security to be limited:

*“Border controls are policies that generate visibility but few results and enable governments to develop a pro-control (or even anti-immigration) rhetoric while maintaining access to a foreign labour force.”<sup>58</sup>*

When looking at whether half the population would immigrate in a scenario where no border existed, the researchers came to the conclusion that there would probably be an increased number of people underway. They emphasize at the same time, however, that restrictive border policies will not dissuade anyone from illegally crossing borders if they do not see another way out. In comparison to this “deterministic” group of people, those who would make use of borderless immigration would be of little significance.<sup>59</sup>

A historical view on immigration and emigration (e.g. Sassen 2000) is also able to relativize the widespread risk of immigration because there has been migration for as long as there have been people. Migration crucially contributed to the development of mankind in evolutionary, social, cultural and cognitive respects. But as Beck phrased it, it is mostly not about the risks themselves, but about their perception.

*“Risk is like a whip that drives society to do something that it would probably not otherwise have done. Risk does not issue regulations or perspectives. (...) Risk is a negative term. It only says what should not be done, but not what should be done.”<sup>60</sup>*

The maxims of border policies are likewise negative. It is a matter of preventing the entry of a certain group of people. What European policies that deal with immigration lack is a consistent and coordinated approach with formative interests and not defensive ones. The first attempt at this was already undertaken by the EU in 2005 with its Global Approach to Migration. Efforts to coordinate border security with foreign policy, labor market policies, development cooperation and demography have so far failed to separate positions of interest, to take outside perspectives into consideration and to draft a long-term strategic plan for the EU, its members and its international partners. As long as it is not possible to agree upon an international concerted approach, regions and departments will continue to act against each other and the EU could run the danger of losing its own values and convictions.

## Notes

<sup>1</sup> [www.frontex.europa.eu](http://www.frontex.europa.eu)

<sup>2</sup> Frontex video at: [www.youtube.com/watch?v=T-rllXq5wOQ](http://www.youtube.com/watch?v=T-rllXq5wOQ) (accessed 9-11-2013)

<sup>3</sup> Ecu (European Currency Unit) was the calculational predecessor to the euro from 1979 to 1998.

<sup>4</sup> Cecchini (1998, p. 30).

<sup>5</sup> Convention implementing the Schengen Agreement of 14 June 1985 between the governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of controls at their common borders. Signed in Schengen, Luxembourg on 13 June 1990.

<sup>6</sup> In the meantime, several states had joined the Schengen Agreement as well: Italy on 27 November 1990, Spain and Portugal on 25 June 1991, Greece on 6 November 1992 and Austria on 1 January 1995.

<sup>7</sup> Österreichische Ratspräsidentschaft [Austrian Presidency] (1998).

<sup>8</sup> bpb (2011).

<sup>9</sup> The Council decides on admission to the Schengen territory based on each individual accession treaty. As of the editorial deadline in September 2013, when the new EU Member States would in fact be in a position to abolish their border controls was still completely open.

<sup>10</sup> Regulation No. 539/2001.

<sup>11</sup> Council Decision 2008/633/JI.

<sup>12</sup> Directive 2011/95/EU on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted.

<sup>13</sup> Dublin-Übereinkommen [Dublin Convention] (1997, p. 1).

<sup>14</sup> A “safe” country in this context is every country classified by the EU as “safe”. “Safe” means that there is no threat to life or freedom on the basis of “race”, religion, nationality, belonging to a specific social group or on the political conviction of the asylum seeker; that the principle of non-refoulement according to the Geneva Convention on Refugees is protected and that an asylum seeker has the possibility to apply to be recognized as a refugee. “Country of origin” is that state from which the non-EU citizen comes, whose citizenship he possesses. “Third countries” are non-EU countries through whose territory a non-EU citizen enters the EU, most often a neighboring country.

<sup>15</sup> Poland and Hungary: Aid for Reconstructing of the Economics (PHARE)

<sup>16</sup> Europäische Kommission [European Commission] (2007).

<sup>17</sup> Estonia, Latvia, Lithuania, Poland, the Czech Republic, Slovakia, Slovenia, Hungary, Malta and Cyprus.

<sup>18</sup> Speech by the Parliament’s State Secretary Fritz Rudolf Körper on 24 April 2004 at the Conference for International Cooperation in Zielona Góra in a press report from the Ministry of the Interior, 6 May 2004; Körper (2004).

<sup>19</sup> Morocco, Algeria, Tunisia, Libya, Egypt, Jordan, Israel, the Palestinian areas, Lebanon, Syria, Armenia, Georgia, and Azerbaijan.

<sup>20</sup> European Neighborhood Policy: [http://ec.europa.eu/world/enp/partners/index\\_de.htm](http://ec.europa.eu/world/enp/partners/index_de.htm) (accessed 9-11-2013)

<sup>21</sup> European Commission (2013).

<sup>22</sup> EUROSUR: new tools to save migrants’ lives at sea and fight cross-border crime, European Commission - MEMO/13/578 19/06/2013, [http://europa.eu/rapid/press-release\\_MEMO-13-578\\_en.htm](http://europa.eu/rapid/press-release_MEMO-13-578_en.htm) (accessed 7-31-2013)

<sup>23</sup> Europäische Kommission [European Commission] (2008).

<sup>24</sup> Europäische Kommission [European Commission] (2011a, p. 20); Monroy (2013).

<sup>25</sup> Europäische Kommission [European Commission] (2011a, p. 15).

<sup>26</sup> Europäische Kommission [European Commission] (2011a, p. 10).

<sup>27</sup> Europäische Kommission [European Commission] (2011b, p. 10).

<sup>28</sup> Monroy (2012).

<sup>29</sup> Regulation No. 2252/2004.

<sup>30</sup> Europäische Kommission [European Commission] (2013a).

<sup>31</sup> Europäische Kommission [European Commission] (2013b).



- <sup>32</sup>This plan was also proposed by the Commission in February, 2013, but not yet passed.
- <sup>33</sup>European Commission (2010a).
- <sup>34</sup>Europagruppe Grüne [European Affairs Group for the Greens] (2013).
- <sup>35</sup>Jahn et. al. (2006); Hasse (2007); Eigmüller (2007).
- <sup>36</sup>Friese (2012, p. 71.).
- <sup>37</sup>Friese (2012, p. 69).
- <sup>38</sup>Friese (2012, p. 74).
- <sup>39</sup>Bitkom (2007).
- <sup>40</sup>Frontex video: <http://www.youtube.com/watch?v=T-rlIXq5wOQ> (accessed: 9-12-2013)
- <sup>41</sup>Frontex: ABC Conference and Exhibition - Invitation for Industry <http://www.frontex.europa.eu/news/abc-conference-and-exhibition-invitation-for-industry-9jmBHJ> (accessed: 9-12-2013)
- <sup>42</sup>EADS (2004).
- <sup>43</sup>European Commission (2010b).
- <sup>44</sup>PCP stands for pre-commercial procurement and means the acquisition of research and development performance through public clients. In a product development cycle, PCP is in the phase before commercialization. [http://cordis.europa.eu/fp7/ict/pcp/overview\\_en.html](http://cordis.europa.eu/fp7/ict/pcp/overview_en.html)
- <sup>45</sup>European Commission (2012).
- <sup>46</sup>UNHCR: Mediterranean takes record as most deadly stretch of water for refugees and migrants in 2011, <http://www.unhcr.org/4f27e01f9.html> (accessed: 7-13-2013)
- <sup>47</sup>Human Rights Watch: Pushed Back, Pushed Around [www.hrw.org/sites/default/files/reports/italy0909web\\_0.pdf](http://www.hrw.org/sites/default/files/reports/italy0909web_0.pdf) (accessed: 9-13-2013)
- <sup>48</sup>Mehr als 1500 Flüchtlinge im Mittelmeer umgekommen [www.tagesschau.de/ausland/fluechtlingemittelmeer100.html](http://www.tagesschau.de/ausland/fluechtlingemittelmeer100.html) (accessed: 9-12-2013)
- <sup>49</sup>Compare also the EU agreement with Morocco on migration controls and its effects in: Heck, Gerda (2011), "It's been the best journey of my life": Governing Migration and Strategies of Migrants at Europe's Borders: Morocco', in Baumann, Mechthild/Lorenz, Astrid/Rosenow, Kerstin (eds.), *Crossing and Controlling Borders. Immigration Policies and their Impact on Migrants' Journeys*, Opladen, pp. 73-86
- <sup>50</sup>Sanctions against Libya: [www.sanctionswiki.org/Libya](http://www.sanctionswiki.org/Libya) (accessed 7-31-2013)
- <sup>51</sup>Kreickenbaum (2011).
- <sup>52</sup>Brantner (2011); Heilbrunner (2010); Böhm (2010).
- <sup>53</sup>European Court of Human Rights (2012).
- <sup>54</sup>Haarhuis (2013).
- <sup>55</sup>"Wir werden uns von unseren Vorstellungen einer verantwortungsvollen Flüchtlingspolitik leiten lassen." Interview with Interior Minister Dr. Hans-Peter Friedrich on 19 Oktober 2013, [www.bmi.bund.de/SharedDocs/Interviews/DE/2013/10/bm\\_pasauer\\_neue\\_presse.html](http://www.bmi.bund.de/SharedDocs/Interviews/DE/2013/10/bm_pasauer_neue_presse.html)
- <sup>56</sup>Beck (2008, p. 32).
- <sup>57</sup>Pécoud/de Guchteneire (2007).
- <sup>58</sup>Pécoud/de Guchteneire (2007, p. 6).
- <sup>59</sup>Pécoud/de Guchteneire (2007, p. 16).
- <sup>60</sup>Beck (n.d., p. 60).
- <sup>61</sup>Rat der EU [Council of the EU] (2006).

## References

### Secondary Literature

- Beck, Ulrich (2008), *Weltrisikogesellschaft. Auf der Suche nach der verlorenen Sicherheit*, Frankfurt/Main.
- Beck, Ulrich (n.d.), *Risikogesellschaft. Auf dem Weg in eine andere Moderne*, [www.hf.uni-koeln.de/data/eso25/File/7463/Ulrich%20Beck%20-%20Auf%20dem%20Weg%20in%20eine%20andere%20Moderne%20\(16.06.08\).PDF](http://www.hf.uni-koeln.de/data/eso25/File/7463/Ulrich%20Beck%20-%20Auf%20dem%20Weg%20in%20eine%20andere%20Moderne%20(16.06.08).PDF) (accessed: 7-31-2013)
- Böhm, Andrea (2010), Unser Türsteher, *Die Zeit Online*, 11-29-2010. [www.zeit.de/2010/48/Europa-Fluechtlinge-Libyen](http://www.zeit.de/2010/48/Europa-Fluechtlinge-Libyen) (accessed: 7-31-2013)
- Brantner, Franziska (2011), *EU muss Hilfe für Gaddafi-Regime sofort stoppen*, press release of 22 February 2011, [www.franziska-brantner.eu/pressemitteilung/eu-muss-hilfe-fur-gaddafi-regime-sofort-stoppen](http://www.franziska-brantner.eu/pressemitteilung/eu-muss-hilfe-fur-gaddafi-regime-sofort-stoppen) (accessed: 7-31-2013)
- Bundesverband Informationswirtschaft, Telekommunikation und neue Medien e.V. (Bitkom) (2007), *Border Control. Technologien und Prozesse aus Sicht der ITK-Industrie*, [www.bitkom.org/files/documents/BorderControl\\_web.pdf](http://www.bitkom.org/files/documents/BorderControl_web.pdf) (accessed: 9-12-2013)
- Bundeszentrale für politische Bildung (2011), *EU-Innenminister wollen Schengen-Regeln ändern*, [www.bpb.de/politik/hintergrund-aktuell/68808/schengen-auf-dem-pruefstand-13-05-2011](http://www.bpb.de/politik/hintergrund-aktuell/68808/schengen-auf-dem-pruefstand-13-05-2011) (accessed: 9-12-2013)
- Cecchini, Paolo (1998), *Europa '92. Der Vorteil des Binnenmarkts*, Baden-Baden.
- EADS (2004), *EADS liefert Ausrüstung zur Sicherung der rumänischen Grenze*, press release of 12 August 2004.
- Eigmüller, Monika (2007), *Grenzsicherungspolitik. Funktion und Wirkung der europäischen Außengrenze. Eine Studie am Beispiel spanischer Migrations- und Arbeitsmarktpolitik*, Wiesbaden.
- Europagruppe Grüne (2013), *Kein Big Brother an Europas Grenzen*, [www.gruene-europa.de/smart-borders-9312.html](http://www.gruene-europa.de/smart-borders-9312.html), 28.2.2013 (accessed: 7-31-2013)
- Friese, Heidrun (2012), Border Economies. Lampedusa and the Nascent Migration Industry, *Shima: The International Journal of Research into Island Cultures*, Vol. 6, No. 2, pp. 66–84.
- Frontex (2012), *Annual Risk Analysis 2012*, [http://frontex.europa.eu/assets/Attachment\\_Featured/Annual\\_Risk\\_Analysis\\_2012.pdf](http://frontex.europa.eu/assets/Attachment_Featured/Annual_Risk_Analysis_2012.pdf) (accessed: 9-12-2013)
- Haarhuis, Daniela (2013), Menschenrechtliche Herausforderungen an Frontex. Die europäische Grenzschutzagentur ein Jahr nach der „Hirsi“-Entscheidung des EGMR, *ASYL-MAGAZIN*, No. 1–2/2013, pp. 10–16.
- Haase, Marianne (2011), 'The Europeanization of Ukraine's Migration Policy and its Impact on Migrants', in Baumann, Mechthild/Lorenz, Astrid/Rosenow, Kerstin (eds.), *Crossing and Controlling Borders. Immigration Policies and their Impact on Migrants' Journeys*, Opladen.
- Heilbrunner, Peter (2010), Europas Pakt mit Gaddafi, *Deutschlandfunk*, 29 November 2010, [www.dradio.de/dlf/sendungen/europaheute/1330202/](http://www.dradio.de/dlf/sendungen/europaheute/1330202/) (accessed: 7-31-2013)
- Human Rights Watch (2009), *Pushed Back, Pushed Around. Italy's Forced Return of Boat Migrants and Asylum Seekers*,

- Libya's Mistreatment of Migrants and Asylum Seekers*, [www.hrw.org/sites/default/files/reports/italy0909web\\_0.pdf](http://www.hrw.org/sites/default/files/reports/italy0909web_0.pdf) (accessed: 7-31-2013)
- Jahn, Daniela/Maurer, Andreas/Oetzmann, Verena/Riesch, Andrea (2006), *Asyl- und Migrationspolitik in der EU. Ein Kräftespiel zwischen Freiheit, Recht und Sicherheit*, discussion paper of the research group EU-Integration of 9 July, Stiftung Wissenschaft und Politik, Berlin/Deutsches Institut für Internationale Politik und Sicherheit.
  - Körper, Fritz Rudolf (2004), *Rede am 24.4.2004 bei der Konferenz zur grenzüberschreitenden Zusammenarbeit in Grünberg/Polen (Zielona Góra)*, press release of the Ministry of the Interior of 6 May 2004.
  - Kreickenbaum, Martin (2011), *Das Bündnis der EU mit Libyen bei der Flüchtlingsbekämpfung*, 3 March 2011, [www.wsws.org/de/articles/2011/03/fluc-m03.html](http://www.wsws.org/de/articles/2011/03/fluc-m03.html) (accessed: 7-31-2013)
  - Monroy, Matthias (2012), *Das Ende des „patrouillengestützten Ansatzes“*, [www.heise.de/tp/artikel/36/36430/1.html](http://www.heise.de/tp/artikel/36/36430/1.html) (accessed: 9-12-2013)
  - Monroy, Matthias (2013), *EU-Grenzen zu Nordafrika und Osteuropa sollen mit Drohnen überwacht werden*, [www.heise.de/tp/artikel/39/39835/1.html](http://www.heise.de/tp/artikel/39/39835/1.html) (accessed: 9-12-2013)
  - Österreichische Ratspräsidentschaft (1998), *Strategiepapier zur Migrations- und Asylpolitik*, 51970/EU XX.GP.
  - Pécoud, Antoine/de Guchteneire, Paul (2007), *Migration without Borders. Essays on the Free Movement of People*, Paris.
  - Sassen, Saskia (2000), *Migranten, Siedler, Flüchtlinge. Von der Massenauswanderung zur Festung Europa*, Frankfurt/Main.
  - Zimmermann, Friedrich (1986), Rede anlässlich seines Besuches der Grenzschutzstelle Aachen-Süd vom 2.12.1986, Bulletin of the German Government No. 149 of 4 December 1986.
  - Europäische Kommission (2008), Mitteilung. Prüfung der Schaffung eines Europäischen Grenzkontrollsystems (EUROSUR), Brussels, 2-13-2008, KOM (2008) 68 endgültig.
  - Europäische Kommission (2011a), Vorschlag für eine Verordnung des Europäischen Parlaments und des Rates zur Errichtung eines Europäischen Grenzüberwachungssystems (EUROSUR), Brussels, 12-12-2011, KOM (2011) 873 endgültig.
  - Europäische Kommission (2011b), Zusammenfassung der Folgenabschätzung, Brussels, 12-12-2011, SEK(2011) 1537 endgültig.
  - Europäische Kommission (2012), Cover note from the Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director, date of receipt: 27 July 2012, to: Mr Uwe CORSEPIUS, Secretary-General of the Council of the European Union, on: COM(2012) 417 final, Doc. No. 13050/12, Brussels, 8-22-2012.
  - Europäische Kommission (2013a), Vorschlag für eine Verordnung für ein Registrierungsprogramm für Reisende, Brussels, 2-28-2013, KOM (2013) 97 endgültig.
  - Europäische Kommission (2013b), Vorschlag für eine Verordnung über ein Einreise-/Ausreisensystem (EES) zur Erfassung der Ein- und Ausreisedaten von Drittstaatsangehörigen an den Außengrenzen der Mitgliedstaaten der Europäischen Union, Brussels, 2-28-2013, KOM (2013) 95 endgültig.
  - Europäisches Parlament, Rat der Europäischen Union, Richtlinie 2011/95/EU über Normen für die Anerkennung von Drittstaatsangehörigen oder Staatenlosen als Personen mit Anspruch auf internationalen Schutz, für einen einheitlichen Status für Flüchtlinge oder für Personen mit Anrecht auf subsidiären Schutz und für den Inhalt des zu gewährenden Schutzes, Brussels, 12-13-2011, ABl L 337/9-26.
  - Europäisches Parlament, Rat der Europäischen Union, Verordnung (EG) Nr. 562/2006 vom 15.3.2006 über einen Gemeinschaftskodex für das Überschreiten der Grenzen durch Personen (Schengener Grenzkodex) (ABl. L 105 vom 13.4.2006, p. 1).
  - European Commission (2010a), Final Report Cost Analysis of Entry-Exit & Registered Traveller Systems, 4-19-2010,
  - [http://ec.europa.eu/dgs/home-affairs/e-library/docs/pdf/cb\\_e\\_so30\\_rep\\_003\\_1\\_30\\_entry\\_exit\\_cost\\_study\\_final\\_report\\_en.pdf#zoom=100](http://ec.europa.eu/dgs/home-affairs/e-library/docs/pdf/cb_e_so30_rep_003_1_30_entry_exit_cost_study_final_report_en.pdf#zoom=100) (access: 7-31-2013)
  - European Commission (2010b), SECURITY RESEARCH PROJECTS under the 7th Framework Programme for Research, [ftp://ftp.cordis.europa.eu/pub/fp7/security/docs/securityresearch\\_catalogue2010\\_2\\_en.pdf](ftp://ftp.cordis.europa.eu/pub/fp7/security/docs/securityresearch_catalogue2010_2_en.pdf) (accessed: 7-31-2013)
  - European Commission (2013), Implementation of the European Neighbourhood Policy, 2012 Statistical Annex, Brussels, 3-20-103, SWD(2013) 87 final.
  - European Commission (n.d.), Aeneas programme. Programme for financial and technical assistance to third countries in the area of migration and asylum. Overview of projects funded 2004–2006, [http://ec.europa.eu/europeaid/what/migration-asylum/documents/aeneas\\_2004\\_2006\\_overview\\_en.pdf](http://ec.europa.eu/europeaid/what/migration-asylum/documents/aeneas_2004_2006_overview_en.pdf) (accessed: 7-31-2013)
  - Rat der Europäischen Union, Beschluss vom 22.7.2013 zur Festlegung des Zeitpunkts, ab dem der Beschluss 2008/633/JI über den Zugang der benannten Behörden der Mitglied-

## Legislation and Government Documents

- Bundestag, Bundesrat, VIS-Zugangsgesetz, [www.bfdi.bund.de/SharedDocs/Publikationen/GesetzeVerordnungen/AktuelleBundesgesetzgebung.pdf?\\_\\_blob=publicationFile](http://www.bfdi.bund.de/SharedDocs/Publikationen/GesetzeVerordnungen/AktuelleBundesgesetzgebung.pdf?__blob=publicationFile) (accessed: 9-11-2013)
- Bundesverfassungsgericht BverfG (2011), 2 BvR 2015/09 vom 25.1.2011, Absatz-Nr. (1 - 3), [www.bverfg.de/entscheidungen/rs20110125\\_2bvr201509.html](http://www.bverfg.de/entscheidungen/rs20110125_2bvr201509.html) (accessed: 7-31-2013)
- Europäischer Gerichtshof für Menschenrechte EGMR/European Court of Human Rights, Case of Hirsi Jamaa and others vs. Italy, Application no. 27765/09, Strasbourg, 2-23-2012.
- Europäische Kommission (2007), Hintergrundinformationen zur Schengen-Erweiterung, Brussels, 12-20-2007, MEMO/07/618, [www.google.de/url?sa=t&rct=j&q=&esrc=s&frm=1&source=web&cd=1&ved=0CDQQFjAA&url=http%3A%2F%2Fec.europa.eu%2Frapid%2Fpress-release\\_MEMO-07-618\\_de.pdf&ei=HQ9AUrXVKJLZ4QS7uIHABA&usq=AFQjCNEWfIW420qY1MJ87BIC6961GeiMAA&bvm=bv.52434380,d.bGE](http://www.google.de/url?sa=t&rct=j&q=&esrc=s&frm=1&source=web&cd=1&ved=0CDQQFjAA&url=http%3A%2F%2Fec.europa.eu%2Frapid%2Fpress-release_MEMO-07-618_de.pdf&ei=HQ9AUrXVKJLZ4QS7uIHABA&usq=AFQjCNEWfIW420qY1MJ87BIC6961GeiMAA&bvm=bv.52434380,d.bGE) (accessed: 7-31-2013)

staaten und von Europol zum Visa-Informationssystem (VIS) für Datenabfragen zum Zwecke der Verhütung, Aufdeckung und Ermittlung terroristischer und sonstiger schwerwiegender Straftaten gilt.

- Rat der Europäischen Union, Verordnung (EG) Nr. 2252/2004 vom 13.12.2004 über Normen für Sicherheitsmerkmale und biometrische Daten in von den Mitgliedstaaten ausgestellten Pässen und Reisedokumenten, Abl L 385, pp. 1-6.
- Rat der Europäischen Union, Verordnung (EG) Nr. 539/2001 ES vom 15.3.2001 zur Aufstellung der Liste der Drittländer, deren Staatsangehörige beim Überschreiten der Außengrenzen im Besitz eines Visums sein müssen, sowie der Liste der Drittländer, deren Staatsangehörige von dieser Visumpflicht befreit sind, zuletzt geändert durch Verordnung (EU) Nr. 1211/2010 des Europäischen Parlaments und des Rates vom 15.12.2010.
- Rat der Europäischen Union (2006), Übermittlungsvermerk. Schlussfolgerungen des Europäischen Rates 15./16.12.2005, Brussels, Nr. 15914/1/05 / REV 1.
- Übereinkommen über die Bestimmung des zuständigen Staates für die Prüfung eines in einem Mitgliedstaat der Europäischen Gemeinschaften gestellten Asylantrags, ABl. C 254 vom 19.8.1997 („Dublin-Übereinkommen“).

- Übereinkommen zur Durchführung des Übereinkommens von Schengen vom 14.6.1985 zwischen den Regierungen der Staaten der Benelux-Wirtschaftsunion, der Bundesrepublik Deutschland und der Französischen Republik betreffend den schrittweisen Abbau der Kontrollen an den Gemeinsamen Grenzen. Unterzeichnet in Schengen, Luxemburg, 13.6.1990, BGBl. II 1993, pp. 1013 ff.

#### Further Readings

<http://libraryeuroparl.wordpress.com/2013/06/13/smart-borders-package/>

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