

The Intersection of Counter-Terrorism, Migration and Border Control Policies in the European Union: The Securitisation of Migration?

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Abstract

Over the years, migration has been presented in Europe as a threat to the economy, labour market, culture and also security. The migration-security nexus has become a topic of growing interest among scholars in the face of events such as the 9/11 attacks and the ‘Migration Crisis’ (2015). The latter was a significant challenge for the European Union (EU) as it put pressure on the EU’s operational capabilities and questioned solidarity amongst the Member States. This situation was furthermore affected by several terrorist attacks which became framed in relation to the flow of irregular migrants and asylum seekers. This thesis addresses the intersection between counter-terrorism, migration and border control policies in the EU between 1986 and 2017. Hence, it covers a long period that considers the foundational stages of these policies in the EU. It studies the perception of migration as a threat through the adoption of the securitisation theory, especially focusing on securitisation through the association of migration with terrorism. It does so by offering a historical overview of developments in these policies, analysing the EU discourse and selected security practices as well as how they have become legitimised. Analysing forty-four EU documents, it distinguishes several strands in the discourse on migration, terrorism and border control which present duality in the construction of migration, similarities in the representation of migrants and terrorists as well as how the discourse on border control constructs both of them as a threat. The analysis of the securitisation through practices demonstrates an increase of impediments to irregular migration, an increase of use of technology and biometrics and an extension of the scope of the purposes of the tools. In sum, this thesis confirms the growing perception of the intersection between counter-terrorism, migration and border control policies which contributes to the securitisation of migration.

List of Abbreviations

AFSJ - Area of Freedom, Security and Justice

CDA - Critical Discourse Analysis

CEAS – Common European Asylum System

CFSP - Common Foreign and Security Policy

CS - Copenhagen School

CSDP - Common Security Defence Policy

CSS - Critical Security Studies

DHA - Discourse-Historical Approach

EASO - European Asylum Support Office

ECTC - European Counter Terrorism Center

ECRE – European Council on Refugees and Exiles

EDPS - European Data Protection Supervisor

EES - Entry-Exit System

EMSC - European Migrant Smuggling Centre

ESP - European Situational Picture

ETIAS - EU Travel Information and Authorisation System

EU - European Union

EU-LISA - European Agency for the Operational Management of Large-Scale IT Systems
in the AFSJ

Europol - (at first) European Police Office/ European Union Agency for Law Enforcement Cooperation (currently)

Eurosur - European Surveillance System

FRA - European Union Agency for Fundamental Rights

FRO - Fundamental Rights Officer

Frontex - (at first) the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union/ European Border and Coast Guard (currently)

IBM - European Integrated Border Management

JHA - Justice and Home Affairs

JITs - Joint Investigation Teams

NCC - National Coordination Centre

NSP - National Situational Picture

PNR - Passenger Name Record

PS - Paris School

RABITs - Rapid Border Intervention Teams

SAR - Search and Rescue

SIS - Schengen Information System

SIVE - Integrated System of External Vigilance (Sistema Integrado de Vigilancia Exterior)

VIS - Visa Information System

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1. Introduction

In recent years, external migration could be seen as one of the most divisive issues across Europe. The flow of refugees that the European Union (EU) experienced in 2015 put migration¹ at the top of the European agenda and divided the EU Member States as well as their societies. Although this record number of 1,322,800 asylum applications (Eurostat, 2019) was followed by several years of growing numbers of immigrants, it was still a shock for the EU. This so-called ‘Migration Crisis’ and the EU response to it had a substantial impact on many areas. These have included, for example, the Schengen area, an increase of populism and racism in Europe, voting preferences and the Member States’ attitudes towards the EU, and even the willingness of some Member States to be part of the EU (in the 2016 Brexit campaign, an important if not a leading role was played by the subject of migration). It also impacted the perception of the relationship between migration and terrorism. While the number of terrorist attacks in recent years has not increased significantly (Europol, 2020)², the fear of an attack increased and became the most important security issue for European society in 2017 (European Commission, 2018c)³. Recent terrorist attacks in Paris, Brussels and Barcelona have been framed through reference to migration and consolidated the image of the migrant as a potential terrorist threat even though most of the terrorists were born in Europe or had been living in Europe legally for a long time.

1.1. Context and gap in the literature

Research presented in this thesis lies at the intersection between Migration Studies, Security Studies and European Studies. While the primary interest concerns migrants, this thesis addresses the question of how they have been presented as a threat to security. This migration-security nexus is then explored within the context of the EU. While this question has already been asked by many scholars (for example Huysmans, 2000), there are still areas requiring further research. The following literature review presents the main studies related to the subject of analysis. It is a concise review not of all relevant studies but just of selected

¹ Unless indicated otherwise, the term ‘migration’ in this thesis refers to irregular migrants, asylum seekers and refugees.

² According to Europol’s TE-SAT reports, between 2012 and 2018, the number of foiled, failed and completed terrorist attacks reported by the EU Member States each year ranged between 142-205 which is significantly less than 583-515 attacks in 2007-2008.

³ 44% of European society in September 2017 thought that terrorism is the most important issue in the EU.

sources identified in order to demonstrate gaps in the literature and the importance of this research. More related studies are referred to in the following chapters. This section is organised thematically and divided into two sections. The first section considers arguments about the securitisation of migration in the EU and the connection between counter-terrorism, migration and border control policies. The second section addresses research on the possible consequences of securitisation of migration and connecting these policy fields to demonstrate the importance of studying this subject.

1.1.1. The securitisation of migration and the connection between migration, border control and counter-terrorism

While in order to properly present the research around the securitisation of migration it is necessary to start with theory and its origins, this aspect is addressed at length in Chapter 2. For the purpose of this section, the securitisation of migration, in a nutshell, is understood as a presentation of migration as a security threat. Starting with the above-mentioned work of Huysmans (2000), it is important to note that the securitisation of migration is not a new phenomenon that grew out of the ‘Migration Crisis’. Huysmans (2000, p. 752) points out that already in the 1980s, migration has become presented as a “danger to public order, cultural identity, and domestic and labour market stability”. This perception of migration as a threat was developing and became then also linked to transnational crime and terrorism. Huysmans (2000) acknowledges in this regard the role of spill-over of the economic project of the internal market into an internal security project and referred to intergovernmental cooperation, such as the Trevi Group, which is the first important observation in the context of this study. While the 9/11 attack can be seen as a turning point for not only counter-terrorism policy but also migration management and border control, Huysmans (2000) (see also Karamanidou, 2015; Vaughan-Williams, 2015; Horii, 2016) notes that it is necessary to also consider earlier developments. Nevertheless, as cooperation such as in the Trevi Group was surrounded by significant secrecy, there are no in-depth studies regarding its contribution to the securitisation of migration.

The second important observation is that while, the connection between migration, border control and counter-terrorism has been observed by some scholars (Bigo, 2002; Baker-Beall,

2009; Cinoglu and Altun, 2013), it was not a topic of comprehensive study so far. This was pointed out by Schmid (2016, p. 3) who claims that:

“the study of terrorism and the study of migration have been two separate fields. While there is a huge literature on both, migration and on terrorism, there are no in-depth studies on the intersection of the two phenomena”.

In the context of this connection, a few studies should be mentioned. First, while 9/11 was a historic moment for the development of counter-terrorism policy in the US as well as in the EU, it may not have had a direct and instant impact on the perception of the connection between terrorism, migration and border management. In the case of the EU, Léonard (2010b, 2015) argues that the role of border control in counter-terrorism policy has increased only since the terrorist attacks in Madrid in March 2004. While after 9/11 border control was seen as one of the many actions to be taken, the attack in Madrid recognised it as a priority. Moreover, Léonard (2010b) points out the lack of systemic assessment of the effectiveness of border control measures in counter-terrorism policy.

Second, the work of Baker-Beall (2009, 2016, 2019) should be also pointed out in this context. Baker-Beall (2009, p. 203) argues that:

“in the discursive construction of EU counter-terrorism policy the socially constructed threat of terrorism has been conflated with the threat of the ‘migrant other’ leading to the securitisation of asylum and migration policy”.

While the ‘migrant’ has not been constructed as a potential terrorist threat in a direct way, it has been expressed by several references to the problems connected with ‘globalisation’, ‘open’ society and ‘open’ borders (Baker-Beall, 2009). Analysing the EU ‘fight against terrorism’ discourse, Baker-Beall (2016, p. 119) points out that a need to improve ‘control’ and ‘surveillance’ over borders is caused by the fear that terrorists can take advantage of this ‘globalised’ EU society. Thus, the work of Léonard (2010b, 2015) and Baker-Beall (2009, 2016, 2019) are not only examples of studies that analyse the link between both policies but also indicate different approaches: while Baker-Beall focuses on the discursive construction of terrorist and migrant ‘other’, Léonard addresses the usage of border control measures in counter-terrorism.

This leads to the third important observation in this literature review: the importance of everyday security practices besides discursive constructions. Bigo (2001, p. 100) argues that:

“immigration becomes a problem, a challenge for European societies because scenes from everyday life are politicized, because day-to-day living is securitized, and not because there is a threat to the survival of society and its identity”.

Bigo’s work shows that the merging of internal and external security is caused by competition between agencies for de-territorialized tasks of traditional police, military and customs, which creates a new threat image by linking immigration, organised crime and terror (Waeber, 2013, p. 54). Baird (2018, p. 130) adds to this picture by introducing business actors who co-constitute EU border security policy by “setting the scene”. According to a representative of a national think tank cited by Baird (2018, p. 123):

“visions of technological design precede policy norms: ‘In my experience, all they are looking at is what is the future of technology, and based on the future of technology they are designing the future of the political situation’”.

The final observation addresses the pre-emptive and preventive character of some security practices. As pointed out by de Goede (2008, pp. 178-179):

“[i]n Europe, we like to think that the language of hunting down the terrorists and striking preemptively is particularly American. More importantly, we think that policies authorized in the name of preemption and the issues they raise concerning human rights and civil liberties are typically American”.

Nevertheless, de Goede (2008) warns against the assumption that European adherence to the rule of law would protect against such practices. Protection and threat anticipation are claimed by de Goede (2011) to be the central aspects of documents such as the *EU Internal Security Strategy* (2010) or the *EU Action Plan on Combating Terrorism* (2004).

This subsection indicated the gap in the literature that is the connection between migration and terrorism. While it has presented works indicating this connection and demonstrating different approaches to the analysis of securitisation, there is a lack of in-depth analysis of both securitising discourse and practice considering early developments in the policies, such

as the Trevi Group. Since this section has also observed the importance of addressing the preventive and pre-emptive character of security practices, the following subsection presents various studies around possible consequences and effects of preventive/pre-emptive practices, securitisation of migration and linking counter-terrorism, migration and border control policies.

1.1.2. The possible consequences of securitisation of migration and linking counter-terrorism, migration and border control policies

The very direct consequence of securitisation of migration, in the understanding of the Copenhagen School (see Chapter 2), would be the adoption of extraordinary measures when the move is accepted. Nevertheless, here the consequences or effects have a broader meaning to include also the impact of these measures. Studies on the possible consequences or effects of securitisation of migration, linking migration, counter-terrorism and border control policies as well as of usage of preventive and pre-emptive measures remain in their infancy. However, as argued by Buzan, Wæver and de Wilde (1998, p. 29), “the more security [is not] the better”. The possible consequences or effects can appear on different levels and affect the decisions and actions of different entities. It could, for example, be observed in the decision to leave the EU by the UK following the Brexit campaign, in which a fundamental part was played by the discourse of migrant securitisation (see Koller, Kopf and Miglbauer, 2019). It may also affect the security actors’ decisions and actions, for example, the perception of migration as a threat may lead to the decision of a push-back operation diminishing migrants’ chances of reaching the EU; or it may affect the public opinion leading to an increase of racism and hate crimes. As claimed by Karamanidou (2015, pp. 39-39), securitisation of migration can contribute to the “reproduction of social and political identities through the process of othering and division of ‘us’ and ‘them’ (Huysmans 1995; Squire 2009) and (...) to the exclusionary politics of migration”. According to Dover (2008), the securitisation of immigration policy and linking it to the area of justice, security and freedom, put migrants in physical danger and expose them to economic servitude, which can lead to a self-fulfilling prophecy of a security threat.

The consequences of the securitisation of migration and its construction as a terrorist threat are not limited only to the controls at the borders. Mythen, Walklate and Khan (2013)

analysed micro-social effects of the introduction of counter-terrorism policies and the extension of pre-emptive policing practices among British Pakistanis. The young people interviewed by the authors, “felt that they were living the everyday consequences of being socially constructed or ‘made-up’ as risky subjects” (Mythen, Walklate and Khan, 2013, p. 390) and that the rule ‘not guilty until proven’ did not apply to them (Mythen, Walklate and Khan, 2013, p. 387). As Mythen, Walklate and Khan (2013, p. 388) point out,

“although it might be argued that bolstering security procedures at sites vulnerable to terrorist attacks is a logical and reasonable strategy, the extent of screening procedures and the frequency with which people of Asian heritage have been targeted is worrisome (Mythen and Walklate, 2010a: 54; Salter, 2008: 245)” (see also Mythen and Walklate, 2008).

It reflects Zedner’s (cited in Mythen, Walklate and Khan, 2013, p. 388) claim that the exceptional security measures went outside the border crossing points and entered daily life. Mythen, Walklate and Khan (2013) also refer to the statement of the Metropolitan Police Service, which acknowledged that the stop searches without grounds for suspicion correlated with a fall in trust for police and fear of Muslim communities towards police which confirms that security measures can have a contrary impact on security. According to Vertigans (2010, p. 32), “individuals within communities under surveillance consider their values and behaviour to be under threat, or even attack, creating feelings of uncertainty, alienation, vulnerability, persecution and victimization”.

Counter-terrorism, migration and border control policies in the EU and the EU Member States have been widely studied by academic scholars. They have approached these areas from different perspectives including legal, historical and institutional analysis. These two subsections have provided a concise review of relevant literature in order to point out the lack of in-depth studies of the securitisation of migration in the context of the perception of the connection between counter-terrorism, migration and border control policies. They aimed at highlighting the importance of uncovering this connection and securitisation from two perspectives, both discourse and practice. Doing so in the EU context is crucial to allow for reflection on the current approach to migration. The Brexit campaign is just one of the examples, as is the Polish refusal to accept the EU relocation scheme, which shows that securitisation of migration can have an important effect not only on migrants but on the shape of the EU as well. As it is not likely that the number of migrants coming to the EU

(especially from Africa) will drastically decrease for many reasons, including climate change (IOM, 2008; Acostamadiedo *et al.*, 2020), it is necessary to first identify how securitisation occurs and then rethink the EU approach to it.

1.2. Questions and aims

While there is a growing interest in the migration-security nexus, there are still areas that require further studies. In consideration of the identified gap in the literature, this thesis is to contribute to the existing knowledge by achieving three aims. First, it charts the historical development of the security practices in the European Union in the areas of migration, border management and counter-terrorism and/or counter-radicalisation. Providing such a long-term overview of the evolution allows for observation of trends and changes in the EU approach to migration, border control and terrorism.

Second, it examines the securitisation of migration in the EU. The thesis conducts this examination from two perspectives: discourse and practices. The analysis addresses how migration, terrorism and border control are constructed in the EU discourse and how these constructions contribute to the representation of migration as a threat. It also investigates how different selected tools can contribute to this representation. This analysis allows for the identification of different dynamics of securitisation (see Chapter 2) and distinguishes this study from the existing literature.

Third, this thesis investigates the intersection between counterterrorism, migration and border control policies in the EU. While the securitisation of migration has become a widely studied area, the literature review in this chapter has identified a gap in addressing the connection between migration and terrorism (see Schmid, 2016). This thesis thus contributes to the literature by responding to this gap and focusing in particular on the ways in which this perception of the connection between migration, terrorism and border control policies is visible in the EU. It is argued here that the assumption of such a connection directly contributes to the securitisation of migration as it links migration to already highly securitised terrorism. It thus follows the understanding of securitisation through association presented by Léonard and Kaunert (2019) and addressed in Chapter 2.

This thesis seeks to answer the following two questions:

1. How are counter-terrorism, migration and border control policies connected in the EU?
2. How is the intersection of counter-terrorism with migration and border control policies leading to the securitisation of migration in the EU?

1.3. The EU and the selection of the analysed documents

The migration-security nexus is a broad area that requires narrowing. This section specifies the subject of analysis and explains the choices made in this regard. It accordingly refers to the focus on the EU, the choices which have been made with respect to the selection of the EU documents and the chosen time frame.

The EU is the most advanced form of European integration which in 2021 celebrated the 70th anniversary of the signing of the Treaty of Paris. Since then, the integration project evolved from the European Coal and Steel Community, through the European Atomic Energy Community and the European Economic Community to become the European Union. Its competencies have grown in various areas, including migration management, border control and counter-terrorism (see for example Monar, 2001, 2012). The EU and its growing role as a security actor (see for example Wæver, 2000; Boer and Monar, 2002; Rieker, 2007; Zwolski, 2009; Mauer, 2010), as well as its role in the securitisation of migration (see for example Huysmans, 2000; Karamanidou, 2015; Lazaridis and Wadia, 2015; Baker-Beall, 2019; Léonard and Kaunert, 2019; Lucarelli, 2019), were subjects of various studies. While this thesis also focuses on the EU, it does not mean that the role of the Member States is not recognised. Even though the EU has become a significant actor that requires a close examination, it is argued here that the Member States, due to the institutional complexity and decision-making processes, can still have a powerful role in the securitisation process⁴. However, it is unfortunately not feasible to address the proposed questions in regard to both the EU as a whole and the Member States in a single doctoral thesis. Therefore, while the EU remains the prime focus, the following chapters occasionally

⁴ Since the assumption in the concept of collective securitisation (presented in the following chapter) about the co-dependency of security actor and audience in the phase of securitising move, which can be identified in the case of the EU and the Member States.

include indications of the origin of some initiatives from the Member States where particularly pertinent.

As the focus of the analysis is on the EU as a whole, the selected documents reflect this. Annexe 1 presents the set of the documents which is only a sample of those available. In their selection and analysis was adopted a ground theory approach. Following the qualitative data sampling, new documents have been added until reaching the point of theoretical saturation. It means that, instead of completing the process of data collection prior to their analysis, the former has been completed when adding new texts in each of the selected periods did not result in uncovering new insights (Gilbert and Stoneman, 2015). In order to obtain a representative sample in qualitative research, the attention during the selection of the set of documents was put on several aspects aimed at representing the focus of the study (Henn, Weinstein and Foard, 2011). Thus, the following reasons were considered in the selection of the corpus of the documents: their focus on the analysed matter, type of a document, institution which prepared/adopt a document, and time of presentation/adoption of a document. First, the documents selected for this analysis, address migration, border control and counter-terrorism policies in the EU. Therefore, for example, Conclusions that do not address these areas (at least one of them) or do not add anything significant from the point of analysis are not considered⁵.

Second, the selection includes various types of documents such as Communications, Strategies, EU Regulations, Directives, Recommendations, and Decisions as well as the EU Treaties, Conclusions, Declarations and Programmes⁶. Some of these documents, for instance, Regulations and Directives, are legislative documents: the former must be applied in its entirety in all Member States and the latter sets a goal that must be achieved by all Member States but they do it by devising their national laws. Others, such as European Council's Conclusions and Declarations, are political documents which may identify specific issues and influence the EU's agenda. They, therefore, differ in terms of 'power' which they have (biding/not biding) but also in terms of the matters they address, the way they do it and the language they use. For example, legislative documents such as *EU Regulation establishing Frontex* will have a specific form and legal jargon, and will mostly

⁵ Nevertheless, it has to be noted that not only what is said can be important but also a lack of addressing certain matters can be also of significance.

⁶ All EU documents published in the *Official Journal of the European Communities* and the *Official Journal of the European Union*, have been referenced with the European Communities and the European Union as authors respectively.

focus on the specifics of how Frontex ought to function and not so much on the general challenges and visions for the EU migration and border control policies which would be addressed in Council's Declarations. The selection of texts represents then both political and legal discourses of the EU (see section 2.3.2.).

Third, the sample of the documents mostly includes those produced by the European Commission, an executive body of Commissioners representing the EU interest and responsible for proposing legislation and enforcing EU laws; by the European Council, a body bringing together EU leaders to set the EU's political agenda; the Council of the European Union, an intergovernmental body that negotiates and adopts EU laws. While the first institution is a supranational body, the following two are intergovernmental⁷. Including different types of documents of different institutions of both supranational and intergovernmental character allows for a fuller analysis of the discourse of the EU as one organisation since documents represent both the EU interests and an agreed vision of its Member States.

Fourth, documents selected for this analysis were adopted/presented between 1986 and 2017. This relatively long time frame is what distinguishes this research from previous studies and allows for observing possible changes (or their lack) in the evolution of the analysed policies. The analysis was divided into three periods of time marked by significant events from the perspective of the creation of the perception of the intersection between counter-terrorism, migration and border control policies: 1. creation of the single market, 2. 9/11 terrorist attack and 3. 'Arab Spring' and 'Migration Crisis'. Beginning the analysis in 1986 allows addressing the removal of the internal borders and the then intergovernmental cooperation which, as pointed out in the literature review in section 1.1., is important from the perspective of identifying the roots of the perception of migration as a threat and also indicates the acknowledgement of the Member States' influence on the evolution of the analysed policies. Because of this, the corpus of documents includes the *Convention Implementing the Schengen Agreement* (1990) or the *Prüm Convention* (2005) as well as some examples of the Trevi cooperation, for example, the *Declaration of the Belgian Presidency: Meeting of Justice and Interior Ministers of the European Community, in Brussels, on 28 April 1987*. While these documents were not directly produced by the EU, the Trevi, Schengen and Prüm

⁷ The corpus of documents includes also examples of intergovernmental cooperation outside the EU framework.

acquis have later been incorporated into the EU law and thus, it is argued here, shaped the evolution of the analysed policies.

The second period of analysis includes documents adopted around three important terrorist attacks: 9/11, the attacks in Madrid in 2004 and London in 2005. Finally, the last period addresses the time of ‘Arab Spring’ and ‘Migration Crisis’ referring to the terrorist attacks of ‘lone wolves’ from 2011 and 2012, the migration flow and the events at the Italian Island of Lampedusa in 2011 and 2013, the flow of asylum seekers in 2015, as well as to the terrorist attacks that occurred between 2015-2017. 2017 was assumed to be the end of the period of the ‘Migration Crisis’ and discourse adopted in the direct aftermath of the events of 2015 because of the end of the refugee relocation scheme on September 26, 2017, as planned in *Council Decision 2015/1601* (European Union, 2015). While the first two periods cover a similar length of time, the last one is significantly shorter due to the special activity of the EU in the analysed areas which is visible in the number of analysed documents in this period (see Annex 1).

This set of documents was selected for the purpose of conducting the analysis of the evolution of migration, border control and counter-terrorism policies. They were also the subject of the discourse analysis conducted in Chapters 4 and 6. However, two documents, selected to inform about the Trevi cooperation, being the conclusions of the British government (thus not directly produced by the Trevi cooperation) were excluded from the discourse analysis. Chapter 5 focuses on security practices and refers to a wider set of documents beyond those listed in Annexe 1 in order to address the evolution of the analysed tools. Since all of these documents are referenced in the chapter, they are not listed in a separate annexe.

1.4. Overview of the structure of the thesis

This thesis is divided into seven chapters. Following this introduction, Chapter 2: ‘Theory and Method’ consists of three sections which accordingly address Critical Security Studies, Securitisation Theory and discourse analysis. Starting with the origins of Critical Security Studies (CSS) and the distinction between CSS and traditional Security Studies, it provides an introduction for the section on securitisation theory which focuses on two preeminent schools: The Copenhagen School and The Paris School. While they offer different

approaches to securitisation, it is argued here that grasping the process of construction of migration as a threat requires combining them. Therefore, in addition to the presentation of these two approaches, and their critiques and strengths, the section concludes with the demonstration of why and how both of them guide this study. The final section of this chapter presents the method of discourse analysis and the technique adopted in this thesis. In order to offer a greater presentation of this technique, the last section demonstrates how it has been applied to one of the documents, the *Convention Implementing the Schengen Agreement* (1990).

The next chapter, Chapter 3: 'Historical analysis of the intersection of counterterrorism, migration and border control policies', addresses the first and second aim of this thesis. It offers a chronological overview of the developments in migration, border control and counter-terrorism policies in the EU and identifies two ways in which these areas are connected in the EU documents: through discourse and practices. This chapter is divided into three sections focusing on different time periods as specified in the previous section of this chapter: 'pre-September 11', 'post-September 11', 'Arab Spring and Migration Crisis'.

These two perspectives of discourse and practice are then addressed in the following two chapters. Chapter 4: 'Securitisation through discourse' presents the results of the analysis through the adopted technique. This chapter is divided into three sections that accordingly refer to the discourse on immigrants, terrorists and border control. Each of these sections consists of subsections presenting distinguished strands in the EU discourse. The analysis of the EU discourse thus aims at demonstrating how migration, terrorism and border control are connected from the perspective of discourse in the EU documents and how this discourse contributes to the construction of migration as a threat.

Chapter 5: 'Securitisation through practices' also focuses on uncovering this connection and its contribution to the securitisation of migration but, following the work of Bigo (2000, 2014) and, especially, the study of Balzacq (2008), it moves the attention to the tools used by the EU to control the border. Five of the sections address the Schengen Information System, Visa Information System, Eurodac, European Surveillance System as well as the cooperation between Frontex and Europol. This chapter offers an overview of the evolution of these tools and points out how specific aspects of their adoption contribute to the representation of migration as a threat.

The analysis in this thesis then goes further and the attention is not only put on the tools themselves but also on the reasons or rather the explanation for the necessity of adopting them offered in the EU documents. Thus, Chapter 6: ‘Discourse that allows securitising practices’, goes back to the analysis of the EU discourse in order to reveal the legitimisation behind the adoption of analysed tools other than the presented constructions of migrants, terrorists and border control. The chapter presents four strands distinguished in the EU documents through the adoption of the same technique presented in Chapter 2: ‘The discourse of surveillance and data exchange as essential for the area of freedom, security and justice’, ‘The discourse of ‘citizens’ expectations’’, ‘The discourse of the need for the technological advances in counter-terrorism’, ‘The discourse on preventive and pre-emptive measures’.

The final Chapter 7: ‘Critical evolution and general discussion’, concludes the analysis presented in this thesis. It consists of two sections that offer reflections on the securitisation of migration and address the need for further studies. The first section addresses the aims and questions of the thesis and provides conclusions and reflections regarding the securitisation theory. The second section recognises the limitations of this study and considers areas that require further research. In particular, it focuses on the importance of proportionality, legitimacy and effectiveness of the EU approach to migration, border control and terrorism.

2. Theory and method

As has been outlined in Chapter 1, this thesis aims at contributing to existing knowledge by investigating the ways in which counter-terrorism, migration and border control policies can be connected and how this connection impacts immigrants. More specifically, it looks at how the intersection contributes to the perception of immigrants as a threat. In order to investigate this matter, this thesis had to move from the traditional approaches, using mainly historical and legal analysis, to the critical approaches giving particular attention to securitisation theory and critical discourse analysis to examine the threat construction embedded within selected EU documents. This chapter focuses on presenting this theory and method as well as the assumptions that derive from them.

The first section introduces Critical Security Studies (CSS) in order to place the securitisation theory in the wider context of the discipline. It presents the differences in the understanding of the concept of security in the critical and traditional theories respectively and provides some reasons for the emergence of these differences. It thus refers to the questions posed by scholars that lead to the debate that changed the way security is studied. It further moves to distinctive approaches in CSS and discusses some disagreements between the new 'Schools'. This section serves as an introduction to securitisation theory and situates the thesis within the field.

The second section addresses securitisation theory in more detail and is divided into three subsections: 'the Copenhagen School', 'the Paris School' and 'Supplementing the Copenhagen School with the Paris Schools' approach'. The first subsection, in addition to the presentation of the main theoretical assumptions, also presents the critique of this approach with a special focus on the difficulties that can be encountered when applying this theory in the EU context. It continues with the presentation of the concept of collective securitisation which can be an alternative to the understand securitisation in the EU. While the first school focuses on the speech act, the Paris School moves the attention to security practices. This subsection refers to the work of Bigo (for example 2002, 2008) and Balzacq (for example 2008) to present this approach, but it also points out the reasons for applying the approaches of both schools. Finally, the last subsection presents the securitisation theory that is used in this thesis.

The third section focuses on the method of discourse analysis and consists of three subsections. It starts with presenting the Critical Discourse Analysis (CDA) and indicates some features that distinguish it from the poststructuralist discourse analysis. Further, it moves on to present the Discourse-Historical Approach (DHA) that is used in this thesis. The second subsection indicates the technique of DHA that is applied to the selected EU documents. After presenting the six-steps method, the third subsection provides an example application of this technique to the *Convention Implementing the Schengen Agreement* (1990). This serves as a more comprehensive demonstration of the applied method.

2.1. Critical Security Studies

Analysing the intersection of counter-terrorism, migration and border control policies in the EU requires what is called ‘the broadening and deepening’ of security studies as the state is not the referent object and military actions are not the source of threat. While both migration and terrorism are at least presented as security matters and the terrorist threat could be understood as a type of military threat posed not just by states but also groups that claim to be states (e.g., ISIS), this cannot be assumed about migrants. Also, the referent object, in this case, is understood to be the European Union – an international organisation with a high level of economic and political integration. Therefore, it is an example that reflects Huysmans' (1998, p. 9) claim that “introducing non-military threats and questioning the state-centric focus brings in many new questions to the security studies agenda which would not emerge in the mainstream approaches”. Because of these distinctions from the traditional Security Studies, this section introduces ‘Critical Security Studies’ (CSS) and demonstrates how CSS relates to securitisation theory. In doing so, it follows Mutimer's (2019) presentation of the evolution of CSS.

Walt (1991, p. 212), referring to Nye and Lynn-Jones (1988), defines security studies as:

“the study of the threat, use, and control of military force. It explores the conditions that make the use of force more likely, the ways that the use of force affects individuals, states, and societies, and the specific policies that states adopt in order to prepare for, prevent, or engage in war”.

As the usage of military force is largely the domain of the states, it puts them at the core of traditional Security Studies. This focus on the state as the referent object, or the object to be secured, led to a debate after the Cold War about the fundamental assumptions that underlie Security Studies. As Mutimer (2010) points out, this discussion about security and questioning its traditional understanding came to a great extent from the failure of political realism to foresee the end of the Cold War. Thus, scholars began to ask questions about the referent object, nature and scope of security. So far, the focus was put (as Walt's definition suggests) on a particular state that must defend itself, by use of military force, from an attack conducted by another state. The security of individuals was understood as security of the state: individuals are safe if the state is safe. This, however, prompts questions about the security of individuals from other than military threats as well as the security of individuals living in states with oppressive regimes. This resulted in the broadening and deepening of Security Studies. These questions and changes in Security Studies were not only taking place on the theoretical level. The focus of governments was also changing: individual security and the feeling of insecurity as well as internal security issues became important for governments (see Bigo, 2000).

These reflections regarding the nature and scope of security were present at the 1994 conference 'Strategies in Conflict: Critical Approaches to Security Studies' at York University in Toronto. This conference not only started to refer to 'Critical Security Studies' but also produced a book edited by Michael C. Williams and Keith Krause titled 'Critical Security Studies: Concepts and Cases' (1997). The book was an attempt to set out the wider scope of CSS, in order to attract scholars that disagreed with the approaches of traditional Security Studies. As a result, the understanding of the idea of 'critical' exploration of security varies among scholars. First of all, a distinction between the lowercase 'critical theory' and the uppercase 'Critical Theory' must be made. The latter refers to Frankfurt School and is a part of the group of 'critical theories'. 'Critical theories' include different approaches such as the above-mentioned 'Critical Theory', social constructivism, post-structuralism, feminism or 'Green Theory' that 'critically' theorise international relations. What it means to be 'critical' in Security Studies does not have a singular definition and Williams and Krause (1997) neither specify it in their book. As they declare, they "have not sought to define a precise meaning of the term critical in either a methodological or political sense" (Williams and Krause, 1997, p. viii). Further, they state that their perception of the 'critical' can be understood as:

“Robert Cox’s distinction between problem-solving and critical theory: the former takes ‘prevailing social and power relationships and the institutions into which they are organized ... as the given framework for action,’ while the latter ‘calls them into question by concerning itself with their origins and how and whether they might be in the process of changing’” (Williams and Krause, 1997, p. xi).

This reluctance towards establishing a fixed definition is shared by Peoples and Vaughan-Williams (2015) who claim that:

“(...) any rigid definition of the term critical security studies will tell you more about the position from which that definition is attempted than anything else. Rather, there is an array of different perspectives that has become associated with this term”.

The definitions of CSS and critical security theory have been, however, provided by Booth (2007). According to him, the latter “is both a theoretical commitment and a political orientation concerned with the construction of world security (...)” and:

“[c]ritical security studies is a sub-field within the academic discipline of international politics concerned with the pursuit of critical knowledge about security. Critical knowledge implies understandings that attempt to stand outside prevailing structures, processes, ideologies, and orthodoxies while recognising that all conceptualisations of security derive from particular political/ theoretical/ historical perspectives (...)” (Booth, 2007, p. 30).

Further, Williams and Krause (1997) in their book touch upon some key features that would set out the CSS’ agenda. First of all, they question the referent object of security – the state – pointing out the importance of exploring the level of individuals. Further, they recognize the need to not only broaden the understanding of the referent object but also of security. They assume that a threat does not necessarily only have a military dimension. Finally, they refer to the epistemological implications coming from the above assumptions. They define CSS as a post-positivist scholarship by rejecting the possibility of objectively studying security. This epistemological element was key for the further development of the field, as it led to the distinction between the ‘Copenhagen School’(CS) and the ‘School’ of Critical

Security Studies⁸. The CS and its related scholarship are analysed in more detail in the next section.

This division between CSS and the CS was not the only one that occurred. Another ‘school’ that emerged relates to scholars based in Aberystwyth (Welsh School) and the work of Ken Booth (see Booth, 2004). The Welsh School attempted to present a more concrete understanding of critical security theory, based on ‘Critical Theory’ and the work of the Frankfurt School. In this approach and according to the Frankfurt School, knowledge is produced socially and politically and is “always for someone and for some purpose” (Cox cited in Mutimer, 2019, p. 99). This way, it criticises the traditional Security Studies and their tendency (coming from traditional theory) to draw a line between the person that analyses the reality and the reality itself. It assumes that change is possible, and emancipation is needed. It also argues that researchers should look at the world through the eyes of the state and the national security concept (Wæver, 2013, p. 52), and focus on ‘real’ threats against ‘real’ people while for the CS a ‘threat’ is subjective.

Another position that also contributed to CSS is post-structuralism, largely criticised by Booth. Post-structuralism, which shares many ideas with other critical theories, for example, rejects positivist epistemology and grand narratives. It assumes that knowledge claims are unstable and there is a constant need for critique. Post-structural scholarship has roots in French philosophy (contrary to the German roots of ‘Welsh School’) and it draws on a wide range of thinkers such as Jacques Derrida, Michel Foucault, Gilles Deleuze, Jean Baudrillard, Giorgio Agamben and David Campbell among others. They were interested in issues like foreign policy and identity (see Campbell, 1998) and biopolitics (see Agamben, 1998) while using discourse analysis and deconstruction. A largely post-structural position has been also adapted by scholars centred around Didier Bigo. They represent another division inside CSS and are labelled ‘Paris School’ (PS). Their work is presented in more detail in the next section.

⁸ The Copenhagen School identified the Critical Security Studies as emerging ‘school’ of poststructuralist and constructivist position. While the CS agrees with the social construction of life, it assumes that with time, the reality becomes stable, which allows for the objective approach. In this way, the CS contributed to establishing the Critical Security Studies and, at the same time, has distanced itself from it.

An attempt to overcome these divisions was made in 2005 in Paris during a workshop entitled ‘Critical Approaches to Security in Europe’ (C.A.S.E. Collective, 2006). As a result of this initiative, an article was published:

“This Manifesto is the result of collective work. The ‘author’ of this article, referred to as the C.A.S.E. Collective (...). The aim of the article is to collectively assess the evolution of critical views of security studies in Europe, discuss their theoretical premises, examine how they coalesce around different issues, and investigate their present – and possibly future – intellectual ramifications” (C.A.S.E. Collective, 2006, p. 443).

This collective authorship was supposed to serve to build a ‘network’ between scholars “who do not agree on everything yet share a common perspective” (C.A.S.E. Collective, 2006, p. 444). Nevertheless, this attempt to construct a broad understanding of CSS again met with criticism from other scholars (see Behnke, 2007; Salter, 2007; Sylvester, 2007).

2.2. Securitisation theory

As presented in the previous section, contemporary Security Studies went through a transformation that added new questions to the debate, new referent objects and new understandings of security. An important contribution to this transformation was the concept of securitisation coined by Buzan, Wæver and de Wilde (1998). In its most basic definition, securitisation is a process of presenting something as a threat. Drawing on Campbell and Dillon, Balzacq (2010a, p. 1) points out that, “something becomes a security problem through discursive politics” which denies the objectivity of threat and means that there might not be a danger per se. It must be presented as such. As Balzacq (2010a) explains, depending on the way this insight is characterised, two variants of securitisation theory can be distinguished: philosophical and sociological, which differ in understanding of speech act, securitising agent and audience. The CS is labelled ‘philosophical’ due to its roots in the philosophy of language and belief in a ‘social magic’ power of language. As it largely draws on Austin’s speech act theory, it assumes the performativity of utterance and creation of threat by talking ‘security’. The sociological variant is identified by Balzacq (2010a) with the views that focus on practices.

Elsewhere, Balzacq, Léonard and Ruzicka (2016) refer to another categorisation that distinguishes between linguistic and practice-based approaches and also to the three different 'schools': the 'Aberystwyth School', the 'Copenhagen School' and the 'Paris School'. Nevertheless, C.A.S.E. Collective (2006) was concerned about identifying these 'schools' with places (Paris, Copenhagen and Aberystwyth) instead of thinking about them as approaches that are associated with individuals from different locations. A good example of this possible problem is the work of Lene Hansen: on the one hand, despite her location at Copenhagen University, her work cannot be simply classified as part of the Copenhagen scholarship because at times it criticises the approach based on 'speech act' and highlights the importance of practices (see Hansen, 2000). On the other hand, as Balzacq, Léonard and Ruzicka (2016) point out, Hansen's work can neither be directly subsumed to the practice-based approach, as it provides strategies for unpacking linguistic utterances. This supports the claim that many scholars do not "conform to ideal-type 'schools'" (Balzacq, Léonard and Ruzicka, 2016, p. 498).

Nevertheless, making the distinction between those 'schools' is quite common among scholars (Léonard, 2010a; Croft, 2012; Salter and Mutlu, 2013; Wæver, 2013; Baker-Beall, 2019). While acknowledging issues around categorization, this thesis refers throughout to either the Copenhagen School/linguistic approach or the Paris School/practice-based approach. This is because of the conviction of the necessity to first present the 'original' approaches, then their critique and finally, how they need to be adapted to the EU context, which is done below. The section focuses on two 'schools' (Copenhagen and Paris) as their adequacy and usefulness to study the securitisation of migration have been pointed out by many scholars (Léonard, 2010a; Salter and Mutlu, 2013; Bigo, 2014; Baker-Beall, 2019; Léonard and Kaunert, 2019). Following what Bigo and McCluskey (2018) suggest about looking at the critical dialogue between the Paris and Copenhagen Schools, and the influence they have on each other, this thesis does not merely indicate the differences between them but also suggests that they complement each other. It supports Bigo's remark that it is possible to combine both approaches, which can uncover interesting dissimilarities between everyday practices and discourse (Léonard, 2007, 2010a; Léonard and Kaunert, 2019).

2.2.1. The Copenhagen School

What has come to be known as the Copenhagen School started at the Copenhagen Peace Research Institute (COPRI). The concept of securitisation has been introduced by Buzan, Wæver and de Wilde (1998) in the late 1990s along with the notion of sectoral analysis of security (the distinction between military, environmental, economic, societal, and political sectors). While the latter is an expression of the ‘broadening’ of security as it considers other than traditional (military and political) areas of security, the concept of securitisation also engages with the objectivity of a threat. In their understanding, anything can become a security matter regardless of which sector it is part of and its objectivity. Wæver (2000, p. 251) describes securitisation by saying that:

“security is the speech act where a securitizing actor designates a threat to a specified referent object and declares an existential threat implying a right to use extraordinary means to fence it off. The issue is securitized – becomes a security issue, a part of what is ‘security’ – if the relevant audience accepts this claim and thus grants to the actor a right to violate rules that otherwise would bind”.

A few features require further explanation in order to unpack this definition. First, the CS sees securitisation as an intersubjective process (Buzan, Wæver and de Wilde, 1998). As Wæver (2013) states, problems become security issues by labelling them as such. During the speech act, the securitising actor names an issue as a security problem and, when certain conditions are met (see below), the issue becomes a matter of security. This claim implies that there are no issues that are security issues in themselves – they need to be presented in this way. This is a significant departure from traditional Security Studies where security issues are understood to be objective. Buzan, Wæver and de Wilde (1998, p. 30) even claim that “it is not easy to judge the securitisation of an issue against some measure of whether that issue is ‘really’ a threat; doing so would demand an objective measure of security that no security theory has yet provided”.

Further, the success of the securitisation move depends on the acceptance of the audience. There are however some criteria that should be met to obtain this acceptance. To start with the securitising actor, according to the CS, it cannot be just anybody. In order to securitise

an issue, the actor needs authority and power to present some problems as a matter of security and also needs to be able to implement extraordinary measures. Although the CS acknowledges that a securitisation move can be conducted by other actors than the state (with the above-mentioned capabilities), it claims that the state is the ideal security actor (Buzan, Wæver and de Wilde, 1998). Later, the utterance must introduce an existential threat to the referent object. Here, in pursuance of 'broadening and deepening' of security, the referent object does not have to be identified with the state. In the case of societal security, Buzan and Wæver argue that it is the identity that is especially prominent when the issues such as migration are analysed (C.A.S.E. Collective, 2006). The next important element are the extraordinary measures that will protect the referent object. As the issue that the securitising actor is presenting poses a threat to the survival of the referent object, the measures taken to counter it have to go beyond the day-to-day actions.

This last element is related to Buzan, Wæver and de Wilde's (1998) claim that securitisation is a more extreme version of politicisation. According to them, while the latter signifies giving a matter political character, securitisation is taking this matter beyond the realm of normal politics: whereas a politicised matter can meet with open debate, in the case of securitisation, the matter is presented as urgent - as an emergency that requires it to be treated in an exceptional way (Buzan, Wæver and de Wilde, 1998). Moreover, the CS does not perceive this move from politicisation to securitisation as something positive. In other words, for the CS "the more security the better" is a wrong assumption (Buzan, Wæver and de Wilde, 1998, p. 29). They are rather sceptical towards 'security' and extending security to matters such as the environment or religion (Wæver, 2013). This is because, in their opinion, politics should be able to deal with matters in the realm of normal procedures without extraordinary measures that can result in less democratic control (Buzan, Wæver and de Wilde, 1998; Wæver, 2013).

Another important observation on the CS was made by Williams (2003) who argues that although the CS has a strong constructivist position, it is also influenced by realism, especially by the work of Carl Schmitt. This has certain consequences for securitisation theory. Williams (2003, pp. 515-516) claims that there is a similarity between a Schmittian understanding of 'political' and Copenhagen School's 'security', as the nature of the former "is not to be found in the issues themselves, but in a particular way of relating to them. What makes an issue 'political' is the particularly intense relationship that actors feel toward it".

Similarly, any issue can be securitised, according to the CS, if it is intensified, and presented as an existential threat against which emergency measures must be applied. Further, for Schmitt, sovereignty is understood as the capability to make decisions (Williams, 2003). It is the sovereign who decides on exception because applying any prior rules would contradict a real emergency (Williams, 2003).

2.2.1.1. The critique of the Copenhagen School

The CS' securitisation theory has become a very popular approach that has been applied by many scholars in recent years. Nevertheless, it also became strongly contested. Neal (2009, p. 336) identifies the following criticism: "questions about the 'audience' of such discursive moves (Balzacq, 2005; Higashino, 2004), the securitizing authority and capacity of the speakers (Williams, 2003), whether securitizing moves can take silent or non-verbal forms (Hansen, 2000), what conditions must be in place for securitizing moves to succeed or fail (Green Cowles et al., 2001), the difference between securitization and politicization (Huysmans, 1995) and the ethico-political assumptions and implications of the approach (Aradau, 2004)". Another widely raised claim refers to the possibility to apply the Copenhagen School's theoretical framework beyond Western countries (Wilkinson, 2007; Barthwal-Datta, 2009). The reason behind this criticism is the 'Westphalian straitjacket' that entails the focus on the state as the security actor and does not allow taking into account the specific local socio-political context while analysing security in developing countries (Barthwal-Datta, 2009). This, as Huysmans (cited in Barthwal-Datta, 2009) explains, is an effect of the conditions in which this concept emerged: it was a response to the European security issues, particularly in the post-Cold War years.

The following paragraphs focus specifically on those critiques on securitisation that are particularly relevant in the context of this thesis. The first serious weakness of the securitisation theory that is considered here, is its concentration on the speech act as an event, not a process. Williams (2003, p. 521) points out that if we look at securitisation as a speech act event, where the securitising actor makes a political decision to securitise a certain issue, then there is a risk of omission of securitisation taking place as a process, where "a situation is being gradually intensified" without actual decision to do so. However, Stritzel (2007, p. 364) points out that actually Wæver and Buzan use the term 'intersubjective process' and

‘speech act/utterance’ interchangeably. It would suggest that security is both of them at once, while they “are so different that they form two rather autonomous centres of gravity” (Stritzel, 2007). The need for clarification by the CS on whether securitisation is an intersubjective process or a self-referential act was also pointed out by Balzacq (2010a).

Many scholars have also criticised treating securitisation just as a speech act (Williams, 2003; Balzacq, 2005; Wilkinson, 2007; Barthwal-Datta, 2009). Williams (2003) claims that understanding the speech act as the sole means of securitisation leads to the omission of another tool that is increasingly prominent in political communication, such as an image. This claim was further repeated by Baker-Beall (2016) who adds to it other non-linguistic processes such as silence and practice. The need to consider the practices in analysing securitisation has been claimed much earlier by Bigo, who uses the concept of ‘(in)securitisation’ as inseparable from securitisation as well as ‘governmentality of unease’ while he analyses security as a ‘technique of government’(C.A.S.E. Collective, 2006). Balzacq (2005) also criticises the CS for their concept of security as a speech act considering it a ‘conventional procedure’ while arguing that it should be understood as a ‘strategic (pragmatic) practice’. In line with these claims, Léonard and Kaunert (2019) also stress the importance of practice and point out the paradox of the CS that does not take them into account while recognising the possibility of a situation where a permanent or repeated security risk exists and is treated as such without a new securitising move but with practices that are not legitimised through discourse. This point is further advanced in the section on the Paris School below.

Another widely raised issue with the securitisation theory refers to the role of the audience. Although the audience’s acceptance seems to be crucial for securitisation theory, because without it the securitisation move cannot be successful, some scholars, for example, Balzacq (2005), claim that how this happens remains undefined. Many questions have been asked about the role of the audience in the securitisation theory, for example “which audience is when and why most relevant?” (Stritzel, 2007b, p. 363), “[h]ow does the power of the audience relate to the decisionism of the speech act event?” (Stritzel, 2007b, p. 363), “what exactly constitutes audience acceptance?” (Balzacq, Léonard and Ruzicka, 2016, p. 449). In this context, Balzacq (2010a) points out that there are two types of support, formal and moral, that are important for the securitising actor. The latter can be obtained either from the public or institutional body and would be crucial in cases such as war (Balzacq, 2010a). The formal

support comes from an institution and gives the government the mandate to adopt a policy (Balzacq, 2010a). Although this support, as Balzacq (2010a) claims, is essential and generally sufficient to take action, the question is if a lack of moral support can potentially undermine the success of the securitisation move. Further, while formal support can be assessed, deciding upon moral support of the public is more difficult – is there a need for a state-wide survey or is the absence of wide resistance sufficient? Another difficulty arises if the public accepts the securitised problem as a threat but does not agree with the extraordinary measures that are proposed, therefore it can be seen as a partial acceptance. Nevertheless, Balzacq (2008) also notes that securitisation can take place even without the consent of an identifiable audience.

2.2.1.2. The Copenhagen School's theory and the EU context

Securitisation theory not only requires some adjustments to be applied outside Europe. Also, the EU context demands adjustments to securitisation as observed in research conducted by Baker-Beall (2016) and Neal (2009). They point out a few aspects where securitisation will differ in a national state and the EU. First, the securitising actor will not be the top leader because of the complex institutional system in the EU. Second, the audience will not be simply understood as “public”, rather bureaucrats, experts and political professionals as the EU affairs are not that widely reported and discussed beyond a specialist audience. Third, also, the existential threat and extraordinary measures will have a different meaning because “[m]uch of what is being done in the name of security is quiet, technical and unspectacular, in the EU intensely so, and just as much again does not declare itself to be in the name of security at all” (Neal, 2009, p. 352). These differences come from the special nature of the EU that, as pointed out by Wæver (2000, p. 264), is “neither state nor international organization”. The next part of the section looks in more detail at the problems around identifying the securitising actor and audience at the EU level.

First, when considering the EU as a securitising actor, it should be noted that, as Lucarelli (2019), as well as Sperling and Webber (2019), point out, the actorness of the EU in the area of security was contested for a long time. However, Zwolski (2009) notices that there is a tendency to focus these analyses only on the narrow understanding of security, that is the

military capabilities, and on the Common Foreign and Security Policy (CFSP) and the Common Security Defence Policy (CSDP). Like Zwolski (2009), Sperling and Webber (2019) argue that limiting the analyses only to these policies would be a misinterpretation. If one analyses security in its broader definition, then the understanding of actorness must reflect this. It has to be noted here that whereas in the case of CFSP and CSDP the EU has ‘special competencies’, which means limited participation of the European Commission and European Parliament with the stronger positions of the European Council and the Council of the EU, in the area of freedom, security and justice, the EU shares the competences with the Member States (both can adopt legislative acts)⁹. Apart from establishing the actorness of the EU, more questions arise regarding the complex structure of the European Union: who exactly is the securitising actor? Is it an individual such as the President of the European Council or European Commission, or maybe it is one of the EU institutions? Is it always the same individual/institution or do they change depending on the topic?

Second, in terms of the audience, in the EU it could be understood in two ways: the EU Member States that agree on European decisions (narrow understanding) or European society (broader understanding). In order to identify the audience, one could usefully consider Balzacq’s (2010a, pp. 8-9) definition:

“[f]or an issue to be pronounced an instance of securitization, an ‘empowering audience’ must agree with the claims made by the securitizing actor. The empowering audience is the audience which: a) has a direct causal connection with the issue; and b) has the ability to enable the securitizing actor to adopt measures in order to tackle the threat”.

Further, Balzacq (2010a) also points out the importance of the ability of the securitising actor to identify with the audience’s feelings, needs and interests in order to achieve a perlocutionary effect¹⁰. This, however, produces several difficulties if one assumes the public (broad understanding) to be the audience.

The first problem can occur when looking at the direct causal connection. Wæver (2000) argues that the sense of the ‘European’ identity is developing and in different countries can

⁹ Although a thorough analysis of the process of acquiring competences by the EU in this area would be interesting, it goes beyond the scope of this thesis.

¹⁰ The perlocutionary effect is an effect that the speech has on the speaker, for example, persuasion or scaring.

be seen differently. It is still clear that the EU Member States significantly differ in their understanding of the EU's role in the international arena, in deciding which problems are crucial and how the EU should deal with them. This could be observed during the 'Migration Crisis' when the Member States were divided into those that supported solidarity and joint help to refugees, like Germany, and those that did not want to participate in common solutions, like Poland. In the case of securitisation, it means that not each issue will be equally susceptible for securitisation in each country, as for some of them this connection will be present and for some it will not: some countries were significantly pressured by the migration flow while others did not have that problem and did not feel that it was their responsibility.

The second problem regards the ability to enable the actor to adopt extraordinary measures as European society represents moral support and does not directly enable it. The Member States, not European society, accept the move when they vote on new legislation. It is the Council which consists of Ministers from the Member States and the European Parliament that decides about adopting new legislation, but they also may ask the Commission to put forward a proposal¹¹. Thus, considering the audience's acceptance of the move in the case of the European public would be more challenging. However, if the actor is to be able to identify with the audience, then looking at the language used by the EU should also say something about the audience. The jargon of the EU documents and speeches in the EU institutions significantly contrasts with the more approachable message sent by national or local politicians which would indicate the broad understanding to be more appropriate.

2.2.1.3. *The concept of collective securitisation*

Some answers to these questions can be provided by the concept of collective securitisation. In this case, the securitising actor is not a 'top leader' but an international organisation that "acts on behalf of other empowered actors who themselves may have individual securitising imperatives" (Sperling and Webber, 2019, p. 236). In its 'thick' version, the securitising actor not only acts in the name of the states that empowered them ('thin' version) but also possesses some autonomy to act on its own behalf (Sperling and Webber, 2019). The EU is

¹¹ In this situation, the audience can appear in the position of the securitising actor.

seen by Sperling and Webber (2019) as an example of an international institution that enjoys such autonomy – the Member States indeed empower the EU to voice the security threat that concerns them and to adopt measures against this threat, but the EU also has legal and political authority. Further, according to the concept of collective securitisation, although the audience of the securitising move can take various forms: “international public opinion, other international organisations, domestic publics, transnational intellectual and policy elites”, the most significant are the representatives of the Member States (Sperling and Webber, 2019, p. 242). In this case, the audience is not only the recipient of the speech act, it not only decides upon the success of the securitising move but also, as presented above in the case of the EU Member States, can commence such move (Sperling and Webber, 2019). This leads to the blurring of the line between actor and audience, which is especially visible in the EU because of the existence of both supranational and intergovernmental institutions (Kaunert and Léonard, 2019). According to Lucarelli (2019, p. 422), it allows:

“overcom[ing] the dichotomy between subjectivity and intersubjectivity: securitisation results from both a securitising move by the EU and the interaction between the EU (actor) and its member states (audience)”.

The next crucial element that needs to be addressed is the capability to use exceptional measures. As Neal (2009) points out, this is what according to Schmitt (on whose work the CS draws) is crucial for the actorness. The importance of extraordinary measures is also highlighted by the claim of Buzan, Wæver and de Wilde (1998) that the securitising actor does not even have to use the word ‘security’ in order to securitise an issue. They argue that what is necessary is the presentation of the existential threat that requires adopting special measures that break the rules of normal politics¹². Nevertheless, it must be remembered that the CS sees these exceptional measures as something negative that:

“ha[ve] been invoked to justify and mobilize an array of violent and illiberal practices, including detention without trial, derogation from human rights law, complicity in torture, ‘extraordinary rendition’, the curtailment of civil liberties and the securitization of migration” (C.A.S.E. Collective, 2006, p. 465).

¹² This assumption reflects the realist’s roots of the CS claimed by Williams (2003).

In the case of the EU, and more precisely Frontex, the lack of urgent usage of exceptional measures is one of Neal's (2009) main arguments to support the claim that Frontex was not the result of securitisation but of its failure. Neal (2009) argues that even if at the beginning (at the end of 2001) the logic of securitisation was visible, later it changed and the creation of Frontex followed an ordinary dynamic of negotiation and compromise in the EU. This can prompt rethinking what 'extraordinary measure' and 'exception' can mean in the context of the EU. Perhaps, fourteen different countries (that in 2001 were the Member States of the EU) with a different understanding of threat were unable to establish a new institution following the logic of securitisation because, using Neal's (2009) words, 'the urgency evaporates' during the time needed to decide upon a matter.

Therefore, the question beckons whether securitisation can occur without urgent implementation of the extraordinary measure? Buzan, Wæver and de Wilde (1998, p. 25) state that they "do not push the demand so high as to say that an emergency measure has to be adopted". Similarly, in the concept of collective securitisation, Sperling and Webber (2019) argue that both routine and exception can co-exist and that emergency measures are not required for securitisation to occur. They claim that it is sufficient to observe a significant shift towards a securitised discourse and a change in the policy actions. As Lucarelli (2019) points out, rather 'enhanced ordinary policy' instead of emergency measures were visible in many of the studies on the collective securitisation in the EU that have been presented in the *Special Issue of West European Politics* (42/2, 2019). The observed output of the collective securitisation took the form of new mechanisms or enhanced mechanisms (for example surveillance) and new institutions (the EU Border and Coast Guard) (Lucarelli, 2019).

Further, in the concept of collective securitisation, it was noted that existential threats can be both physical and ontological (Sperling and Webber, 2019). The latter according to Giddens (cited in Lucarelli, 2019, p. 422) refers to a "person's fundamental sense of safety in the world [which] includes a basic trust of other people [in order to] maintain a sense of psychological well-being and avoid existential anxiety". In order to explain how it can be applied to the EU, Lucarelli (2019) refers to the article of Ceccorulli (2019) who analyses the securitisation of Schengen. In this case, it is claimed that migration did not threaten to physically overwhelm the EU but was seen as a threat to the internal order of the Schengen area and as the result, the integrity of Schengen was put above the migrants' rights (Ceccorulli, 2019; Lucarelli, 2019). Therefore, it was not a threat to the survival of the EU

(as it would be in the traditional understanding of securitisation) but to some of its purposes (Lucarelli, 2019). Moreover, Lucarelli (2019) points out another interesting feature of securitisation in the EU: instead of the traditional security threat, it often experiences the raising of the level of risk. This is visible for example in the Frontex Risk Analyses.

Sperling and Webber (2019) view the collective securitisation as a process that contains six stages: 1. the status quo of the security discourse, 2. precipitating event or events that disrupt the status quo, 3. securitising move that is recursive interaction between audience and the actor 4. audience response 5. policy outputs 6. the routinisation. This is a circular model where the execution of new policies leads to routinisation and a new status quo that can be disrupted again. As stated, what changes (worsens) the perception of security does not have to be a single event but can be “a series of cascading events” (Lucarelli, 2019, p. 422). In this context, Lucarelli (2019, p. 424) confirms the appropriateness of Huysmans’ insight for the concept of collective securitisation when he referred to “little security nothings” which build a process of securitisation without apparent departure from the “normal rules of the game”.

Therefore, coming back to Neal's (2009) claim about Frontex, if one considers its establishment in the context of the concept of collective securitisation it may be seen as a result of securitisation of migration. The key assumption here is the one of securitisation of migration prior to 9/11. If one accepts that migration has been securitised in the 1980s and sees the actions taken in order to establish the free movement of people as securitisation of migration, then Frontex can be the result of a prolonged securitising move that have been prompted by many participating events, where the 9/11 attack did not play the leading role, however, could confirm its necessity.

This subsection has presented the CS’ concept of the securitisation process and what difficulties one can face when applying it to the EU context. Although the CS’ securitisation has been the subject of wide criticism (some of which have been presented above) the critiques and changes proposed by scholars do not undermine the utility of this theory. Many of the scholars, including those who claim some incoherence in the theory, praise its importance. It has been described as the most prominent, influential, appropriate, popular, mainstream and also most controversial among the new approaches (Williams, 2003; Stritzel, 2007; Hansen, 2012; Léonard and Kaunert, 2019; Sperling and Webber, 2019).

Wæver himself sees these adjustments to the theory as “a sign that the theory (...) can generate/ structure different kinds of usage and even produce anomalies for itself in interesting ways“ (cited in Stritzel, 2007, p. 359). One of these adjustments, seeing the securitisation only as a ‘speech act’, is especially important from the perspective of this thesis and is further addressed in the next subsection that presents how security practices can be seen not only as a consequence (extraordinary measures) of the speech act but also as a securitising tools in themselves.

2.2.2. The Paris School

An alternative approach to securitisation focused on discourse and speech acts, which is in itself a criticism of the CS’ securitisation theory, is the so-called Paris School (PS). This approach shifts the attention to security practices and its main scholar is Didier Bigo who claims that:

“[i]t is possible to securitise certain problems without speech or discourse and the military and the police have known that for a long time. The practical work, discipline and expertise are as important as all forms of discourse” (Bigo, 2000, p. 194).

After presenting the CS’ contribution to the securitisation theory together with the concept of collective securitisation which had discourse at its heart, this section of the chapter addresses the theoretical debate about (in)securitisation and the importance of the security practices.

The PS and Bigo as its key scholar, have been inspired by the work of Bourdieu and Foucault. Bigo took from them the concepts such as ‘field of practice’, ‘habitus’, ‘governmentality’ and ‘dispositif’ (Balzacq, Léonard and Ruzicka, 2016). Differently from the CS, Bigo uses the term ‘(in)securitisation’ as he claims that insecuritisation cannot be separated from securitisation because if:

“one is confronted with a security dilemma: the more one tries to securitize social phenomena in order to ensure ‘security’, the more one creates (intentionally or non-intentionally) a feeling of insecurity” (C.A.S.E. Collective, 2006, p. 461).

For Bigo, security is not the opposite to insecurity, and securitisation is not a response to insecurity “but a capacity to manage (and create) insecurity” (Bigo, 2000, p. 174). He underlines that insecurity grows together with securitisation.

Using the Foucauldian framework, Bigo (2014) proposes to understand security as a ‘technique of government’. He puts more attention on practices than discourse because he considers the discourses as forms of *ex post facto* justification for practices. He emphasises the necessity to understand how discourse is used to justify the usage of security practices. This shift of attention from discourse to practice is important because as Bigo (2001) claims, there is a lack of consideration for the actorness of the security agencies. He explains that it is often assumed that security agencies only objectively respond to the problems without considering their ability to construct what security is and what insecurity is (Bigo, 2001). He sees the reason for changes in global politics in the merging of internal and external security and the emergence of the ‘field’ of professionals of the management of unease (Bigo, 2008). This ‘field’ consists of different security agencies including the army, police and private agencies whose attributions are redefined along with disappearing borders between internal and external security (Bigo, 2000). Bigo, therefore, focuses on the social practices of governing and controlling the population. This, as Bigo (2008, p. 10) calls it, ‘governmentality of unease’ has three characteristics: “practices of exceptionalism, acts of profiling and containing foreigners, and a normative imperative of mobility”.

Similarly to the CS, which claims that it is impossible to objectively measure if an issue is a ‘real’ threat, Bigo (2000, p. 174) argues that threats are social constructs that are not independent of the security agencies “whose legitimacy to declare the truth of the threats needs to be put in question”. As he points out, the security agencies claim that they know the ‘truth’ about threats, as this truth is derived from statistical and numerical data, biometrics and sociological profiles. This, as Bigo (2008) calls it, ‘authority of the statistics’ gives them, in their opinion, the ability to decide what security is and to categorise and prioritise threats. Moreover, according to Bigo (2008), the security agencies that form part of the ‘field’ of security compete with each other.

Another important part of Bigo’s work is the questions about the relation between security and liberty (see Bigo *et al.*, 2008; Bigo, 2011). He points out that the lines between the two

are blurred and there is an overarching understanding of security (Bigo, 2011). In terms of migration, Bigo (2002, p. 65) claims that their securitisation is:

“a transversal political technology, used as a mode of governmentality by diverse institutions to play with the unease, or to encourage it if it does not yet exist, so as to affirm their role as providers of protection and security and to mask some of their failures”.

This is then a result of both successful speech acts of politicians and a field of security professionals: practices such as profiling and risk assessment, and “habitus of the ‘security professional’ with its ethos of secrecy and concern for the management of fear” (Bigo, 2002, pp. 65-66).

Balzacq also claims the need to shift the attention from discourse to practice, however, uses the term ‘tool’, not ‘practice’. He argues that securitisation should be understood as “a strategic (pragmatic) practice that occurs within, and as part of, a configuration of circumstances” (Balzacq, 2005, p. 172). He points out that threats can be designed as in philosophical/Copenhagen’s view of securitisation or, according to the sociological view, can come from practices following Bourdieu-inspired claim made by Pouliot:

“social action is not necessarily preceded by a premeditated design. A practice can be oriented toward a goal without being consciously informed by it” (Balzacq, 2010a, p. 2).

Using the context of the EU counter-terrorism policy, he claims that there are occasions when new threats are identified or intensified without discursive articulation, and they are therefore overlooked by the traditional securitisation theory (Balzacq, 2008, p. 76). He also points out that securitisation sometimes occurs without explicit consent from the audience. A solution for this omission is in his opinion moving the attention to the policy tools that affect the image of threat. In his understanding, the tool or instrument of securitisation is:

„an identifiable social and technical ‘dispositif’ or device embodying a specific threat image through which public action is configured in order to address a security issue” (Balzacq, 2008, p. 79).

Following Peters and Van Nispen (1998), Balzacq (2008, p. 81) claims that:

„there are symbolic attributes built into policy instruments ‘that [tell] the population what the [securitizing actor] is thinking [. . .] and what its collective perception of problems [is]’”.

Nevertheless, he points out that not all instruments of securitisation are securitising tools: some instruments are designed to counter already accepted threats while a securitising tool “by its very nature or by its very functioning, transforms the entity (i.e., subject or object) it processes into a threat” (Balzacq, 2008, p. 80). On the one hand, Balzacq (2008, p. 78), contrary to Bigo, states that discourse rather pre-dates the policy instruments, but as he claims, they often have “‘latent developments’ and produce unforeseen effects”. On the other hand, however, he recognizes that they also can be already in place when legitimising discourse is being introduced.

Although both Bigo and Balzacq (2008) move the centre of the attention from discourse to security practice or securitising tools, none of them discourages discourse analysis. Moreover, Bigo (2001), as well as Wæver (2013), claims that an analysis of discourse and practices can reveal different patterns. This joint approach was also advocated by Léonard, (2007), who likewise notices the relevance of security practices for securitisation. She even argues that security practices are more relevant in the case of securitisation of migration and asylum seekers in the EU due to several reasons. First, the securitisation of a persistent threat can become institutionalised and will not be visible in the discourse but will be indicated by the usage of certain practices/tools. Second, migration in the EU discourse is to a great extent constructed as a humanitarian problem (Léonard, 2010a). Another reason she gives for such a claim refers to the nature of the EU and the way it functions as it often occurs that securitisation logic is in place without such discourse. It goes hand in hand with the above-mentioned claim made by Balzacq (2008), and as Léonard (2010a) stated, this has also been pointed out by the CS.

2.2.3. Supplementing the Copenhagen School with the Paris School’s approach

Following remarks and claims made by Bigo, Wæver and Léonard regarding the importance of both the CS and PS, this thesis analyses securitisation from the perspective of both

discourse and practice. Such a joint approach was also recommended by Salter and Mutlu (2013) and Balzacq, Léonard and Ruzicka (2016, p. 517), with the second claiming that “taken individually, neither of these approaches can help us fully understand the contents of and variations among securitization processes”.

In order to analyse the securitisation through discourse, this thesis uses critical discourse analysis which is presented in the next section. Considering the reflections on the CS and the concept of collective securitisation, the securitising actor is identified here with the European Union as a whole, not with specific EU institutions, for example, the European Commission. It is reflected in the selection of the EU documents: the set includes documents prepared by the European Commission (such as its *Communication on Enhancing security* from 2016), European Council (such as the *Conclusions from Tampere* from 1999) as well as by the Council of the EU (such as the *European Union Counter-Terrorism Strategy* from 2005). As this thesis focuses on the construction of the threat in the EU discourse and not on the whole securitising move and its success, it does not specify who the audience is. Nevertheless, following the concept of collective securitisation, it assumes that the audience understood as the Member States can also be involved in the securitising move. It also argues the necessity of considering both narrow and wide understanding of the audience as, whereas the Member States can be involved in the securitising move and also directly approve the proposed legislation, it is European society and citizens that provide moral support and elect the members of the European Parliament. Further, the success of the securitising move does not only imply legislative change but also a change in citizens’ perception of immigrants, which can, for example, produce an increase in hostile or xenophobic attitudes.

In regard to practices, a growing number of scholars placed them at the core of their studies since the turn of the millennium when they gained significant attention (Adler and Pouliot, 2011b; Bueger and Gadinger, 2014). One of the most important figures in the practice theory was Pierre Bourdieu whose work, as presented above, was important for the development of the PS (Bueger and Gadinger, 2014). Bigo (2008), using Bourdieu’s terminology studied European security relations as a transnational field of (in)security. Adler and Pouliot (2011a, p. 6) define practices as “(...) socially meaningful patterns of action which, in being performed more or less competently, simultaneously embody, act out, and possibly reify background knowledge and discourse in and on the material world” and distinguish them

from behaviours and actions¹³. While Bueger and Gadinger (2014) introduce the term ‘International Practice Theory’ distinguishing various core approaches to it, Adler and Pouliot (2011b) talk about a variety of theories focused on practices. In this thesis, practices are looked at from the perspective of securitisation theory and the work of the Paris School focusing on security practices.

What is important, as pointed out by Adler and Pouliot (2011a, p. 8), “practice weaves together the *discursive and material* worlds” and “discourse itself [can be seen] as a practice” (Foucault cited in Hansen, 2011, p. 292). Nevertheless, while discourse is the subject of the analysis in Chapters 4 and 6 conducted based on the definition and technique presented in the following section, the understanding of ‘practices’ in Chapter 5 does not include discourse¹⁴. The analysis in that chapter focuses on specific policy tools in security practices. Following Bigo and Balzacq, it is claimed here that the tools that are introduced to increase security can contribute to the growth of insecurity and impact the perception of the threat. In other words, the policy tools should not only be seen as policy outputs of the securitisation move (the CS’ approach) but must also be considered as securitising tools themselves. In terms of terminology, this thesis uses the term ‘securitising practices’ and ‘securitising tools/instruments’ following the aforementioned definition of Balzacq's (2008, p. 79):

„[a tool of securitisation is] an identifiable social and technical ‘dispositif ’ or device embodying a specific threat image through which public action is configured in order to address a security issue”.

As claimed by Léonard (2010a), despite different names, both Balzacq (instrument/tool) and Bigo (practice) refer to the same concept.

Therefore, apart from conducting discourse analysis, this thesis provides an analysis of several security practices. Some of them, such as the Schengen Information System, Visa Information System and Eurodac, have been already analysed by Balzacq (2008). Thus, the analysis considers the evolution of these systems since Balzacq’s study. However, in order to broaden this analysis, also Eurosur and the cooperation between Frontex and Europol were added to this set of tools. The analysis presents the evolution of these tools, identifies them as instruments of securitisation following Balzacq's (2008) definition and considering

¹³ Practices are type of actions which in turn are type of behaviours (Adler and Pouliot, 2011b, p.6).

¹⁴ The term ‘practice’ is understood here as opposite to ‘discourse’.

Léonard's (2010) criteria of securitising practices: 1. deployment of tools previously used to tackle issues widely accepted as a security threat, 2. exceptional character of tools. To offer an example, Léonard (2010a) identified Frontex's task of conducting risk analyses as securitising practice since intelligence structures have traditionally been used in order to address security threats. Therefore, Chapter 5, considers whether the analysed tools embody threat image, have been (or have features which have been) previously used to counter commonly accepted threats and can be considered extraordinary. In regard to the latter, the analysis points out the difficulty of determining what can be considered extraordinary. Moreover, this thesis also follows Bigo's (2014) perception of discourse as a form of ex post facto justification for practices and apart from the aforementioned analysis of discourse on migration, terrorism and border control, it also provides an analysis of other arguments used to legitimised analysed practices in Chapter 7.

Finally, this thesis does not analyse the truth of the threats produced through securitising discourse and practices or the adequacy of adopted measures but it is interested in uncovering how these threats have been (re)presented. Although the securitisation from these two perspectives is presented separately to demonstrate the possible differences, it is claimed here, following the above-mentioned scholars, that an analysis of both perspectives is necessary in order to develop a thorough understanding of the securitisation dynamics. Apart from these two perspectives, Léonard and Kaunert (2019) also distinguished securitisation through association. They claimed that securitisation takes place even when a matter such as migration, is not directly presented as a threat but associated with an issue already successfully securitised, for example, terrorism (Léonard and Kaunert, 2019). As they pointed out, from the perspective of the observer of this move, it would also be interpreted as a presentation of that matter as a threat. This thesis looks at the intersection between migration, counter-terrorism and border control policies, thus, especially at the construction of threats produced by the blurring of lines between these policies. However, it is claimed here that the same applies not only to discourse but also to practices: if a practice that has been used to deal with an issue constructed as a threat is then used for a different matter, it leads to the presentation of this matter as a threat. Securitisation through association has not been further contextualised by Léonard and Kaunert (2019) and in this thesis, it is not understood as a separate type of securitisation but as part of securitisation through discourse and practice.

2.3. Discourse analysis

As discussed in the previous section, the Copenhagen School, which follows Austin's speech act theory, assumes that utterances do not only describe the world but also realise an action, and hence they are performative (Balzacq, 2005, 2010a). In other words, as Balzacq (2005, p. 175) puts it, "they do things". In line with this, talking security also 'does things', changes the state of affairs (Balzacq, 2010a). Therefore, drawing attention to the use of language, this thesis applies the method of discourse analysis in order to analyse the EU's construction and presentation of threat (the 'security talk') in the context of counter-terrorism, migration and border control. This section presents the method of discourse analysis used to operationalise the presented theory of securitisation. It discusses the discourse analysis and the Discourse-Historical Approach as a type of Critical Discourse Analysis and then presents the technique of discourse analysis that is applied in this thesis. It concludes with the application of the technique to an example.

Discourse analysis, as noted by Balzacq (2010b), is one of the most popular approaches to securitisation, however not the only one. Nevertheless, as both Balzacq (2010b) and Shepherd (2008) point out, what has been labelled 'discourse theory' has been developing over time and has been assigned different meanings and possible ways of application. Already the term 'discourse' has many definitions. As Fairclough, Mulderrig and Wodak (2011, p. 2) point out, 'discourse' can be understood "[i]n the most abstract sense, (...) [as] an analytical category describing the vast array of meaning-making resources available to us" or "as a category for identifying particular ways of representing some aspect of social life". For Link (cited in Jäger and Maier, 2009, p. 35), who works with Foucauldian theory, discourse is "an institutionalized way of talking that regulates and reinforces action and thereby exerts power". Further, some make a distinction between 'text' and 'discourse' or whether it is written and/or oral text, and perhaps also includes non-verbal dimensions (van Dijk, 1998; Wodak and Meyer, 2009).

Similarly, Critical Discourse Analysis (CDA), as Fairclough, Mulderrig and Wodak (2011) point out, is also not a distinct academic discipline with clear theoretical and methodological assumptions. It is rather an "interdisciplinary research movement" that accommodates a range of different approaches (Fairclough, Mulderrig and Wodak, 2011, p. 2). What makes the CDA different from discourse analysis is the problem orientation. This means that the

attention is not put solely on the linguistic analysis per se but on ‘social phenomena’, implying a demand for a multi-methodical approach (Wodak & Meyer, 2009, p. 2). There are also noticeable differences between the CDA and the poststructural discourse analysis. For instance, the former assumes the existence of ‘extra-discursive’, that is, the existence of the ‘real world’ where, as Sunderland (cited in Shepherd, 2008, p. 18) argued: “reality does not depend on what is known about it”. Poststructuralism, however, claims that there is no such ‘extra-discursive’ or ‘non-discursive’ realm that exists independently from its discursive representation (Hansen, 2006). Further, what makes CDA different from other socio-linguistic approaches is “an advocacy role for groups who suffer from social discrimination” and focuses on revealing the hidden power relations (Wodak and Meyer, 2009, p. 15).

The emerging connection between migration and border control is also a complex ‘social phenomenon’ that requires an interdisciplinary approach because it touches on legal, political and humanitarian aspects. Further, while analysing this phenomenon, it is necessary to take into account the historical context. Among many different research strategies in CDA, there is one that emphasises this aspect – the Discourse-Historical Approach (DHA), which is discussed below.

2.3.1. Discourse-Historical Approach

The Discourse-Historical Approach (DHA) is one of the strategies of CDA. In line with this, it is a qualitative approach that critically addresses the usage of language. Language, however, as Wodak (2009, p. 312) claims, is not:

“independently powerful — it gains power through the use that powerful individuals make of it. This explains why the language use of those who have power and thus access to important institutions and public spheres can be studied by employing the DHA”.

DHA follows Weber’s understanding of ‘power’, where it is a “possibility of having one’s own will within a social relationship against the will or interests of others” (Reisigl and Wodak, 2009, p. 88). Further, the legitimisation or delegitimization of power takes place through discourse (Reisigl and Wodak, 2009).

Other concepts that are important from the perspective of DHA are ‘ideology’ and ‘critique’. The former is used to create and preserve disproportionate power relations through discourse (Reisigl and Wodak, 2009). ‘Critique’ in the context of DHA, should be understood as continuing self-reflection during the time of conducting the study and achieving a distance from the data while providing the context and explaining the political positioning of participants (Reisigl and Wodak, 2009). Further, similarly as in CDA, discourse is here seen as ‘social practice’ (van Leeuwen and Wodak, 1999; Fairclough, Mulderrig and Wodak, 2011). Discourse and practice mutually influence each other which means that “discourse constitutes social practice and it is at the same time constituted by it” (van Leeuwen & Wodak, 1999, p. 92). In the context of this thesis, it implies that security practices introduced by the European Union are shaped by the EU discourses on immigration and terrorism and at the same time influence these discourses. Therefore, it is essential, in addition to analysing the discourse on migration control and counter-terrorism, to also focus on the practices and discourse on these practices in order to comprehend the relation between these areas in the EU.

DHA, like CDA, is a problem-oriented, interdisciplinary approach, however, it also takes into account the historical context, which permits not only a consideration of the circumstances in which certain discourse has been used but also, to track the construction of discourse over time. It has been designed for a comprehensive analysis that integrates all available background information and interpretation of different layers of text (Fairclough, Mulderrig and Wodak, 2011). These layers include: the intertextuality and interdiscursivity, the extra-linguistic social/sociological variables, the history and archaeology of text and organisations and institutional frames of the specific context of a situation (Wodak, 2009, p. 318).

As Fairclough, Mulderrig and Wodak (2011, p. 7) point out, DHA was first designed for the purpose of investigating post-war antisemitism in Austria and:

“enable[s] the analysis of implicit prejudiced utterances, as well as to identify and expose the codes and allusions contained in prejudiced discourse”.

The approach has been applied among others to study the discourse on immigration control in Austria (van Leeuwen and Wodak, 1999), in the EU context, to analyse the discourse on unemployment (Muntigl, Weiss and Wodak, 2000) and, as Fairclough, Mulderrig and

Wodak (2011) pointed out, to investigate the anti-Islamic and other forms of racism in the British press.

Considering the above-presented features of DHA, the following subsection will demonstrate how this approach will be adapted and used to analyse the EU discourses on counter-terrorism, migration and border control, to clarify the specific technique of DHA applied in this thesis.

2.3.2. Technique

As mentioned above, neither discourse analysis nor CDA is a uniform discipline and they do not have a fixed technique of analysis. The one used in this thesis draws on Baker-Beall's (2016) technique, although it was adapted to include elements of DHA and to fit the focus of this thesis. This analysis does not only focus on linguistics per se but while examining phenomena of emerging connections between counterterrorism, migration and border control, considers also the historical context. In doing so, the analysis focuses on the following aspects: key texts for this topic, key words and phrases in the texts, linguistic features, main strands in the discourse, intertextuality and interdiscursivity, and historical context. This subsection presents a technique which is a two-stage process that consists of six steps. The first stage consists of three steps where the EU documents were read separately. In the second stage, for the purpose of identifying the main strands in the discourse as well as analysing the intertextuality and interdiscursivity while considering the historical discourse, the documents are looked at together, as one set.

STAGE I

Step 1: Key texts

One of the features of DHA is the focus on multiple genres, large data corpora and triangulation (Wodak, 2009). While appreciating the importance and value of these features, this analysis, due to its scope and focus, will not be able to follow all of them. 'Genre', following Fairclough, was characterised by Reisigl and Wodak (2009, p. 90) as "a socially ratified way of using language in connection with a particular type of social activity". Thus, the discourse of combating global warming was understood by them to be realised through

a range of genres and texts such as TV debates, guidelines, speeches and lectures. In the case of this analysis, it is possible to talk of a genre of the EU legislation, but also, as Baker-Beall (2010) claimed, a genre of security documents. Further, a distinction can be also made between the genre of the legal and political documents since for example, the EU directives will significantly differ from the EU agendas or strategies that are less technical. Although, the linguistic features, which are addressed below, are not the most salient characteristics of legal discourse, their analysis remains important and can offer interesting insights (see section 2.3.3.).

The subject of the study is then a set of 44 documents that were adopted across 30 years in the areas of counter-terrorism, migration and border control. This set includes not only documents adopted by the EC and the EU but also some examples of intergovernmental cooperation that have been later incorporated into the EU framework and impacted the development of these policies in the EU. Although the historical analysis, as explained in Chapter 1, covers 46 documents, two of them, that regard the cooperation in the Trevi Group, are not subject of discourse analysis as they represent the British Government's description of this cooperation. Although the selected set of documents, does not consist of speeches of EU officials or EU press releases, which would allow for triangulation of the data, it is broad in terms of the time frame and types of documents, which allows examining the discourse of the EU as one organisation, not of the politicians.

Step 2: Key words and phrases

The next step involved a search for key words and phrases used in the context of immigration, border control, terrorism and security practices. This search was conducted in a qualitative way, that is, without a previously prepared list of the codes. The codes were created along with the study of data and then contributed to the identification of the main strands at the second stage of the technique (see Charmuz, 1995).

Step 3: Linguistic features

The next step focuses on a range of different linguistic features and their role in constructing the subjects of analysis. There are various language and grammar instruments that can be used to achieve different ideological goals, for example, to obscure the agency (see Muntigl, Weiss, & Wodak, 2000). As Wodak and Meyer (2009, p. 21) point out:

“most researchers incorporate the linguistic categories into their analysis – but to a different extent and with different focus and intensity. CDA does not necessarily include a broad range of linguistic categories in each single analysis”.

The selection of those categories depends on the focus and aim of each specific research study. This analysis considered the following linguistic features: modality, structural oppositions and aggregation.

Modality refers to the actor’s manner of expressing certain ideas while limiting or strengthening the expression of promise or command through the usage of “hedging (I believe/think/suppose), modal verbs, modal adjectives and their adverbial equivalents” (Machin & Mayr, 2012, p. 186). A distinction can be made between high and low modality (Machin & Mayr, 2012). To give an example, a low modality can be expressed with ‘I suppose’ or ‘possibly’, while a high modality would be ‘I believe’ or ‘definitely’. In this analysis, modality thus indicates the importance attached to certain actions, for instance, the usage of border control in counter-terrorism or control of third-country nationals.

Structural oppositions present opposing concepts, for example, threat – safety. They can indicate what is good or bad without labelling it as such, even if only one quality is stated (Machin and Mayr, 2012). In the case of this analysis, structural opposition may be used in the EU documents to make a distinction between, for example, EU citizens and migrants or terrorists and imply that they are a threat.

The last linguistic feature, aggregation, refers to the quantification of persons, for example, many thousands of immigrants. According to van Dijk, “statistics can be utilised to give the impression of objective research and scientific credibility, when in fact we are not given specific figures” (Machin & Mayr, 2012, p. 83). Usage of aggregation, such as, ‘thousands’, in describing the number of migrants can insinuate a large threat as its meaning is unclear, can refer to one, two or ten thousand.

STAGE II

Step 4: Main strands in the discourse

While all previous steps were applied to the texts by looking at them separately, the following steps require treating them as one set. Therefore, after identifying the key words/phrases and linguistic features, attention was put on recognizing different strands in the discourses. In order to do so, various questions were asked: how is the European sense of ‘self’ versus ‘other’ constructed? How is the migrant ‘other’ connected to the terrorist ‘other’? How are the security practices introduced by the EU in the area of migration control and counter-terrorism legitimised? To answer these questions and establish the main strands, it was considered what the identified key words say about the construction of the migrants, terrorists, border control and security practices as well as what effect the used linguistic had on these constructions.

Step 5: Intertextuality and interdiscursivity

Later, the analysis focused on the relations between different analysed texts and discourses. EU documents are very interconnected: actions proposed in an Agenda or Strategy are further addressed in Directives, Regulations, Decisions, Opinions etc., therefore the connections between them needed to be recognised. Also, discourses can be interconnected and overlapping. Here the relation between immigration and terrorism, but also legal and illegal (irregular) immigration was of particular interest.

Step 6: Historical context

The last step of this technique considered the historical context. It is the main feature of DHA that was applied to this analysis. Considering the importance and possible influence of the context on the discourse formulation is needed, for example when thinking about the intergovernmental cooperation: why was the Ad Hoc Group on Migration created?, or why did the EU name border control an important tool to fight terrorism?

2.3.3. Application of the technique – example

In order to present how this technique was used, it is applied here to an example of the *Convention Implementing the Schengen Agreement (Schengen Convention) of 14 June 1985*, which is important for the analysis as it presented the compensatory measures which were considered as necessary after internal borders controls were abolished (step 1).

After identifying the *Schengen Convention* as a key text, various key words used in the context of immigration and border control were recognised there: ‘alien’, ‘threat’, ‘through check’, ‘security’, ‘prevention’, ‘detection’, ‘surveillance’, ‘exchange of information’ and ‘alert’ (step 2).

In terms of linguistic features, the following three key categories can be noticed: structural opposition and modality (step 2). The structural opposition is visible here between ‘aliens’ and ‘persons’. The first term means “any person other than a national of a Member State of the European Communities” (European Communities, 1990b, p. 190). The latter one was used when referring to the general group of immigrants (not only third nationals). It is not explicitly stated at any point that those ‘aliens’ are ‘bad’ or pose threats, however, rules that apply to them are more strict than those concerning ‘persons’: for short stays ‘aliens’ are required to possess a valid visa (if required) as well as:

“documents justifying the purpose and conditions of the intended stay and that they have sufficient means of subsistence both for the period of the intended stay and for the return to their country of origin, (...) [and] not be considered a threat to public policy, national security or the international relations of any of the Contracting Parties” (European Communities, 1990b, p. 21).

Moreover, even though both groups should be subject to checks on the border, “aliens shall be subject to a thorough check” and “[s]uch checks shall always be carried out on aliens” (European Communities, 1990b, p. 21). Here, the third feature can be observed, modality. Across the document, modal verbs such as ‘shall be’ and ‘may be’ are widely used, for example, “aliens fulfilling the following conditions may be granted entry (...)” or “[c]hecks on persons shall include (...)” (European Communities, 1990b, p. 21). They indicate a low modality and leave space for the final decision to be made by the signatory country. However, usage of the modal adverb ‘always’ in the above-mentioned case, suggests a higher modality in the case of checks on ‘aliens’.

Further, two different strands can be pointed out here: ‘Immigration as a matter of security’ and ‘Border as a place of defence’ (step 4). As said before, ‘aliens’ in this document are not called ‘bad’ or ‘dangerous’ at any point however, structural opposition and modality indicate that they can be, as they need to fulfil more requirements to enter the territory of the signatory

countries, ‘shall always’ be subject of checks, moreover ‘through checks’ and only ‘may be’ granted entrance afterwards. It was also stated that ‘aliens’ should not pose a threat to security, which suggests the possibility of it. Moreover, the use of the word ‘alien’ (which rather has a negative connotation) and not ‘third national’ should be pointed out.

The strand of ‘border as a place of defence’ is built on the usage of words such as ‘security’, ‘prevention’, ‘detection’, ‘surveillance’, ‘exchange of information’ and ‘alert’. All of them suggest the need for defence from something or somebody. Although ‘exchange of information’ can be seen as less related, it was becoming increasingly important in border control and the fight against terrorism. It is also directly said in the document that:

“[c]hecks on persons shall include not only the verification of travel documents and the other conditions governing entry, residence, work and exit but also checks to detect and prevent threats to the national security and public policy of the Contracting Parties” (European Communities, 1990b, p. 21).

With regard to intertextuality and interdiscursivity (step 5), it should be repeated that the *Schengen Convention*, as its name indicates, implements the *Schengen Agreement*, therefore, is connected to this document but also to many more as the Schengen acquis has been incorporated into the European framework. Over the years more countries have joined the Schengen area and also rules which apply to this area have been changing. Among documents connected to the *Schengen Convention* can be mentioned: the *Dublin Convention* (1990), which repeats many of its clauses, the *Declaration of the Belgium Presidency* (1987), as the idea of creation of the single market with free movement of people and abolishment of checks at the internal borders prompted setting up the Ad Hoc Group on Immigration, *The Recommendation on prolonging temporary internal border control* (2016) which allowed the Member States to reintroduce the checks on the border due to immigration flow, terrorism threat and border leaks. While it is difficult to present the interdiscursivity on the example of just one document, it can be observed that the discourse on immigrants is related to the discourse on border control: the former is presented as a matter of security and the latter as a place of defence from the threat to security posed by the former.

In terms of the historical context (step 6), it needs to be pointed out that the *Schengen Agreement* and also the *Schengen Convention* were first signed by the Benelux Economic

Union, the Federal Republic of Germany and the French Republic. Thus, for example, a citizen of Spain (which joined the EC in 1985) was not a citizen of the signatory states. Nevertheless, the *Schengen Convention* builds no division between citizens of their signatory states and the rest but between the EC and the rest. This can be explained by the fact that the *Schengen Agreement* was from the beginning meant to put pressure on the other Member States in the abolishment of checks at the internal borders (it was meant to be incorporated into the EU framework). It could therefore be argued that the *Schengen Convention* has already contributed to building the European identity in opposition to the ‘alien’ others. However, not only the signatory states used the term ‘alien’ in reference to third nationals since the same term was used in Polish legislation and the specifics of legal jargon should be also considered in this case.

Another significant element of the historical context refers to the migration situation. Until 1970 immigrants were generally needed as workers, but after 1970, the possibilities for legal labour migration became limited (Léonard & Kaunert, 2019). This caused an increase in illegal immigration, which became a problem for many European countries in the mid-1980s. Therefore, the narration of the need to control immigrants and the requirement that they need to possess enough money for the time of their visit and return to their country of origin can be explained by the generally unwelcoming attitude that was dominant at that time in Europe.

2.4. Conclusion

The aim of this chapter was to present the theoretical framework and demonstrate how the analysis of the documents was conducted. It started with placing the securitisation theory in the discipline of Critical Security Studies: it referred to the difference between traditional and critical understanding of security and to different approaches that emerged as the result of this debate.

The second section of this chapter more closely looked at two Schools: Copenhagen and Paris. While presenting the theoretical framework of the CS, the subsection also presented the criticism put forward in the literature with special attention to the possible issues around

applying the concept of securitisation as a speech act into the EU context. While highlighting the utility and prominence of the work of the Copenhagen School, it also referred to the concept of collective securitisation that still puts attention on the discourse creation but proposes a different understanding of the role of the audience, urgency and extraordinary measures. The second subsection presented the work of Bigo and Balzacq and claimed the necessity of analysing the process of securitisation through both discourse and practices. The last subsection demonstrated how both frameworks of the Copenhagen and Paris Schools are applied in this thesis.

The third section presented CDA and the applied technique of analysis. It started with addressing different meanings of discourse analysis and after pointing out the main features of CDA, it introduced one of its strategies – DHA. This section has highlighted the importance of including the historical context in the analysis of discourse. It has also presented the six-steps technique that draws on the applications of the DHA of van Leeuwen and Wodak (1999). This section concluded by demonstrating this technique's application to an example – the *Convention Implementing the Schengen Agreement* (1990). The next chapter provides an overview of the developments in the area of counter-terrorism, migration and border control. It presents a historical analysis while indicating the ways in which these areas have been connected.

3. Historical analysis of the intersection of counter-terrorism, migration and border control policies in the EU

The relationship between migration and terrorism, and especially migration and security in general, has become a growing topic of interest among scholars in the field of Security Studies (see Bigo, 2002; Fakhoury, 2016; Huysmans & Squire, 2010; Lazaridis & Skleparis, 2016; Messina, 2014; Squire, 2015). Events such as the 9/11 terrorist attack or the ‘Migration Crisis’, that touched on the matter of security and migration, have prompted a wide-ranging debate about the approach taken by the EU to these policies. Scholars observing the connection between these policies asked questions about the role of the EU in its creation and the crucial moments in its evolution. Many scholars point at the 9/11 attack as such a moment because of its major influence on not only the US’ approach to terrorism but also European policies. Huysmans (2006), for instance, states that since that attack the analysed nexus between migration and terrorism has become more visible. A similar conclusion was drawn by den Boer and Monar (2002).

Karamanidou (2015), on one hand, claims that the securitising approach towards migration has been dominant in the EU policy since 9/11, however, on the other hand, she notices that its roots can be seen prior to it. While Karamanidou (2015) sees it in the intergovernmental cooperation such as was the Trevi Group, Horri (2016) refers to the impact of the spill-over of the European internal market in this regard. Moreover, whereas the significance of the 9/11 attack for counter-terrorism policies in the West is clear, Léonard (2010b, 2015) suggests that, in the case of the EU, the attacks on European soil were especially important in terms of usage of border control measures to counter terrorism.

This chapter’s aim is to, first, provide a chronological overview of the significant developments in EU migration, border control and counter-terrorism policies between 1986 and 2017. As stated in Chapter 1, this time frame was selected in order to include in the analysis the intergovernmental cooperation (such as Trevi Group) and changes brought by the establishment of the single market as well as the time of ‘Migration Crisis which is assumed here to conclude with the end of the refugee relocation scheme. Secondly, to characterise the periodical changes in the connection between these policies and thirdly, to identify the ways in which this connection was developing. The study is based on the analysis

of selected European documents that have been identified in the Introduction. The analysis is divided into three consecutive periods: pre-September 11, post-September 11 and the time of the ‘Arab Spring’ and ‘Migration Crisis’. The chapter analyses whether these events had a significant impact on the evolution of the policies analysed and the interconnectedness between them.

3.1. The pre-September 11 period (1986-2001)

Although the 9/11 attack is often pointed out as the origin of the connection between terrorism, migration and border control, some scholars have observed this connection before 9/11 (Huysmans, 2000, 2006; Karamanidou, 2015; Vaughan-Williams, 2015; Wittendorp, 2016). The attitude towards migrants in Europe has changed over the years. As Léonard and Kaunert (2019, p. 43) describe, before the 19th century this attitude was rather positive and migrants were seen not only as unproblematic but also, as an asset to some extent. Nevertheless, it started changing because of the upsurge of nationalism, some anarchist terrorist attacks which were attributed to ‘foreigners’, wars and massive migration movements (Léonard and Kaunert, 2019). While after the Second World War, until 1970, immigrants were generally needed as workers to fill gaps in the labour market, after 1970, the possibilities for legal labour migration became limited. This caused an increase in illegal immigration, which became a problem in the mid-1980s for many European countries. Moreover, as pointed out by Karamanidou (2015), in the 1980s and 1990s the number of asylum applications raised, which, together with the collapse of the communist regimes and war in Yugoslavia, presented migration as a concern for West European countries. Huysmans (2000, p. 756) argues that while previously migration was not politically sensitive, in the 1980s migrants were presented as a danger to public order and the preservation of domestic stability as well as a challenge to the welfare state and the cultural composition of the nation. The problem was serious enough to be brought to the intergovernmental forums such as the Trevi Group. The situation was also influenced by the creation of the Single European Market and the removal of the controls at internal borders. Karamanidou (2015) argues that the securitisation of migration could be a response of the Schengen zone’s members to the free movement and abolishment of internal border controls.

Taking into consideration the literature suggesting the importance of intergovernmental cooperation for the securitisation of migration, this section focuses on the EU's evolution during the pre-9/11 period. and presents some of the intergovernmental cooperations in the area of security and migration. It looks at the perception of migration, terrorism and border control as well as at how some of the intergovernmental cooperations in the area of security and migration could impact the formulation of analysed policies in the EU.

European integration which started after Second World War with an initial focus on economic cooperation was gradually expanding its scope in the second half of the twentieth century. After the time of 'Europessimism' and 'Eurosclerosis' in the late 1970s and early 1980s, the new push for European integration came with the *Single European Act* in 1986. Although this treaty did not directly refer to migration, border control or terrorism, it included the objective of creation of the internal market, which is an area without internal frontiers with the free movement of goods, persons, services and capital. As not all the Member States were equally determined to create the area without internal borders (in particular the United Kingdom), already a year before, in 1985, five European countries¹⁵ went outside the treaty framework of the European Communities and signed the *Schengen Agreement*. It was undoubtedly a milestone for European integration, even though it was only intergovernmental cooperation at first. The creation of the area without internal borders had significant implications for the counter-terrorism, migration and border control policies which at that time were in the competencies of the Member States. As claimed by Benyon (1994, p. 501), already since the *Single European Act* (1986) it has been clear that the removal of the internal controls requires strengthening of the external borders. The Member States were already expecting that the removal of the internal borders can result in a higher risk of terrorism and an increase in illegal immigration and transnational crime.

As Karamanidou (2015, p. 41) points out, the Trevi Group, (as well as the Ad Hoc Working Group on Immigration), was especially important for the securitisation of migration as it was staffed with security experts who established migration as a security matter. The Trevi Group was set up in 1976 by 12 Member States which mostly were interested in avoiding any 'supranationalisation' of the delicate matter of internal security (Monar, 2012). Thus, this cooperation was not based on any formal treaty and excluded the European Communities'

¹⁵ France, Germany, Belgium, Luxemburg and Netherlands.

(EC) institutions¹⁶ from its work. Initially, their main focus was put on terrorism and five working groups were created for, respectively, combating terrorism (Trevi 1), scientific and technical knowledge and police training (Trevi 2), security procedures for civilian air travel (Trevi 3), safety and security at nuclear installations and transport (Trevi 4) and contingency measures to deal with emergencies (Trevi 5).

In 1986, *the Single European Act* and the future consequences of the internal market led to (at the initiative of the British Presidency) the establishment of the Ad Hoc Group on Immigration supervised by the Trevi 92¹⁷ (Bunyan, 1997). Since April 1987 meetings of the ‘Trevi Ministers’ and ‘Immigration Ministers’ were taking place every half a year. The confidential nature of this cooperation caused that access to any information on the workings of the Trevi Group as well as the Immigration Group is very limited. However, at least during one of the meetings of the Immigration Ministers (9 December 1988)¹⁸, counter-terrorism matters may have been discussed as well. Namely, it was a need to maintain the checks on the frontiers to combat terrorism and other crimes, extradition arrangements and whether control of terrorism could be achieved through existing laws and procedures addressed to normal crimes (British Government, 1988). The fact that a group that was first set up for counter-terrorism purposes creates a group on immigration is already significant. However, discussing counter-terrorism issues at Immigration Ministers’ meeting can be a clear signal that already then the European politicians have assumed that terrorism, border control and migration are connected. Moreover, in the meetings of the Ad Hoc Group on Immigration, as stated in the *Declaration of the Belgium Presidency* (1987), those ministers who participated were responsible for immigration, the fight against drugs and terrorism (Bunyan, 1997). This thematic range of interests of the group also indicates the perception of the connection between migration and terrorism.

The *Declaration of the Belgium Presidency* (1987) presents some areas which in order to achieve the freedom of movement, were recognised as requiring more cooperation: visa policy, control at the external and internal borders, measures towards asylum seekers before their arrival, the procedure of examining their requests, as well as the matter of false documents (Bunyan, 1997). It should be noted that these topics were further developed in

¹⁶ The European Commission and European Parliament.

¹⁷ A new Working Group responsible for police and security issues involved in the free movement of people.

¹⁸ *The Conclusions of the Meeting of the Cabinet held at 10 Downing Street on Thursday 15 December at 10.30* presents the topics that were to be discussed both at the Meeting of Immigration Ministers and Trevi Group on 9-12 December.

later documents such as the *Convention Implementing the Schengen Agreement* (1990) and the *Convention Determining the State Responsible for Examining Application for Asylum lodged in one of the Member States of the European Communities* (1990) which are addressed below. The Ad Hoc Group on Immigration even assisted in the drafting of the latter (Benyon, 1994, p. 508), which demonstrates the impact this Group had on the EC.

The second part of the *Declaration of the Belgium Presidency* (1987) refers to the ‘Trevi Group’ and their meeting from December 1986, which was devoted to terrorism and drug trafficking but also to illegal immigration. While according to this document, the exchange of information was to concern only foreigners who represented a potential terrorist threat, it was further stated that “[t]he working group I will continue to study the means for improving the control of persons and goods from regions where there is a high risk of terrorism” (Bunyan, 1997b, p. 11). This statement indicates the preventive security approach that was to be taken towards immigrants on account of the country of origin.

In 1988 another intergovernmental group called the ‘Coordinators’ group on the free movement of persons’ (Coordinators’ Group) was established and asked by the Rhodes European Council to prepare a proposal of measures necessary for the introduction of the free movement. The report called the *Palma Document* (1989) contains a catalogue of ‘essential’ and ‘desirable’ measures concerning actions on external and internal borders, actions to combat drug trafficking and terrorism, visa policy, asylum and refugee’s status, removal (of a person), judicial cooperation and articles carried by the travellers (Bunyan, 1997). The essential measures included for example surveillance at the external frontiers, combating illegal immigration networks and exchange of information (Bunyan, 1997).

The signing of the *Schengen Agreement* (1985) was followed by the *Convention Implementing the Schengen Agreement* (Schengen Convention) (1990) and the *Dublin Convention* (1990). Both of them were a response to the signing of the *Schengen Agreement* (1985): the *Dublin Convention* (1990) was devoted to the need to determine the State responsible for the examination of the asylum applications and the *Schengen Convention* (1990) consists of rules applying to the internal and external border crossing. In the *Dublin Convention* (1990) asylum seekers are not considered as a security threat however the need to sign the document can indicate the perception of asylum seekers as a problem: the Member States wanted to avoid disputes over the responsibility of examining the asylum application.

In the case of the *Schengen Convention* (1990), the signatory states assumed that a lack of controls at internal borders increases insecurity and requires compensatory measures to strengthen the external borders and judicial and police cooperation to fight terrorism and other crimes:

“In view of the risks in the fields of security and illegal immigration, the Ministers and State Secretaries underline the need for effective external border controls in accordance with the uniform principles laid down in Article 6. With a view to implementing those uniform principles, the Contracting Parties must, in particular, promote the harmonisation of working methods for border control and surveillance” (European Communities, 1990b, p. 62).

While terrorism is not mentioned either in the *Schengen Agreement* (1985) or the *Schengen Convention* (1990), immigration and border control became considered security matters. As claimed by Huysmans and recalled by Vaughan-Williams (2015, ch. 2, p. 7), “what was formerly an issue considered resolvable in the sphere of politics had been shifted, albeit subtly, into the ‘domain of security’”. The *Schengen Convention* (1990) does not explicitly describe immigrants as a threat but it includes a long list of security measures that aim to control immigration. Among these measures, one can point out, for example, checks on the external borders (including checks to detect and prevent threats to national security and public policy apart from verification of the documents), cross-border surveillance, a common list of aliens for whom an alert has been issued, a uniform Visa, penalties for smugglers and extradition (European Communities, 1990b). These measures indicate the perception of a connection between migrants and danger even though such a claim is not made directly. The *Schengen Convention* (1990) is then an example of Huysmans' (2006) claim that something does not need to be directly named as a serious threat to become a security matter.

Although the *Schengen Convention* (1990) introduced measures to abolish internal border checks, it allowed their temporary restoration if the public policy or national security require so. It also announced the creation of the Schengen Information System (SIS) that allows authorities from the Contracting Parties to run a search on alerts on a person. SIS was the first database that is one of the pillars of the current security architecture based on information exchange and surveillance.

While the cooperation in the area of Justice and Home Affairs (JHA) was intensifying in the 1980s and both the Ad Hoc Group on Immigration and the Coordinators' Group played a significant role in it, JHA started to become fragmented and too complex (Monar, 2012). Among its defects, Monar (2012) mentions overlaps between different frameworks and low effectiveness. An answer to this problem was the creation of the 'Third Pillar' in the *Treaty of Maastricht* (1991), which is intergovernmental cooperation but inside the EC treaty framework. Article K.1 of Title VI: *Provisions on Cooperation in the Fields of Justice and Home Affairs* introduced areas of common interests for the Member States such as asylum and immigration policies, controls at external borders and police cooperation for purpose of combating terrorism (European Communities, 1992). While the Schengen System was at that time still left outside the EC framework, the Trevi cooperation, as well as some other intergovernmental cooperation, have been incorporated into the *acquis communautaire* and coordinated by a new Coordinating Committee (K.4 Committee). The K.4 Committee had three groups working respectively on I. Immigration and asylum, II. Police and Customs Cooperation whose interests included terrorism, and III. Judicial Cooperation (Benyon, 1994, p. 509).

This way, the link between migration and security as well as the association with terrorism which has been established by the Member States' intergovernmental cooperation was incorporated into the EU *acquis communautaire*. As claimed by Zimmermann (2006, p. 126), the reason why terrorism was included in the Third Pillar, apart from the Member States' reluctance to allow anyone to interfere in this sensitive matter, was a strong belief that:

“the issues of illegal immigration, drug trafficking, and other types of organized crime were closely linked with terrorism and that dealing with each of these criminal activities separately would make little sense”.

In 1992, the number of asylum applications doubled compared to 1989 (Van Mol & de Valk, 2016). The reason for this rise can be seen in the collapse of the Iron Curtain (1989), the end of the Cold War (1991) as well as wars in the former Yugoslavia (2001) which caused new migration waves to Western Europe. In view of this, in 1995, the European Council presented its *Recommendation on harmonizing means of combating illegal immigration and illegal employment and improving the relevant means of control*. This document points out a wide range of means for checking on foreign nationals, including: identity checks by

authorities; penalties for employing illegal migrants; controlling if people who have been refused the permit have left the country; recommendation of setting up a central file of foreign nationals containing information on the administrative situation in each member state and detention of illegal immigrants (European Communities, 1995b). Even though illegal immigrants were not linked to terrorism, they were presented as a threat by, for example, usage of the word “combat” which gives immigration a negative connotation (it is usually used when referring to terrorism or other serious crimes).

In 1997 another European Treaty was signed in Amsterdam. It renamed JHA by calling it ‘Area of Freedom, Security and Justice’ (AFSJ) and instead of referring to it as ‘matters of common interest’, it identified it as the ‘Union objective’. As Léonard and Kaunert (2019) point out, this was not a small change as it indicated the increasing importance of European cooperation for internal security. The *Amsterdam Treaty* (1997) also transferred some previous JHA fields, for example, those related to borders, immigration and asylum, to shared Community competence and the Community method of cooperation (so-called ‘First Pillar’). Although terrorism and migration were included in different chapters¹⁹, migration and border control were again linked to security matters. According to Article 73i of the *Treaty of Amsterdam* (1997), the area of freedom, security and justice could not be established without measures in migration policy, border controls and combating crimes. These measures of combating crimes according to article K.3(e) include a gradual adaptation of minimum rules related to criminal acts and penalties in the fields of organised crime, terrorism and illicit drug trafficking.

The creation of the area of freedom, security and justice was a key priority in the EU agenda. To its establishment was dedicated a special meeting of the European Council in Tampere in 1999. Its conclusions regarding immigration, police and justice were included in the *Tampere Programme*. One of its important aspects was, which people would be able to enjoy the free movement. It was not that obvious as some Member States wanted this privilege to be reserved only for the EU citizens claiming the right to take necessary measures to control immigration from third countries and to combat terrorism, crime, drugs trafficking and illicit trading in works of art and antique (Léonard & Kaunert, 2019). Nevertheless, it was declared in the *Tampere Programme* (1999) that “[i]t would be in contradiction with Europe’s

¹⁹ In the *Treaty of Amsterdam*, terrorism was included in the title VI on Provisions on Police and Judicial Cooperation in Criminal Matters and immigration was part of title III on Visas, Immigration and Other Policies Related to Free Movement of People.

traditions to deny such freedom [free movement] to those whose circumstances lead them justifiably to seek access to our territory” (European Council, 1999, p. 2).

The EU in that document presented itself as very dedicated to freedom, human rights and democracy. It is especially visible in the declarations of the commitment to the Geneva Convention and drawing up a draft Charter of fundamental rights of the European Union. Migrants, in this document, were presented as people in need of help, coming from poor countries with political and development issues, from conflicts areas and places where human rights were not respected. The EU was presented as keen to provide them help and fair treatment, to share with them the freedom of movement and to grant them uniform rights comparable to those of the EU citizens (although not exactly the same ones). Nevertheless, the consequence of this ‘open’ Europe was a need for strengthening the controls at the external border. Among required actions, such as ensuring fair treatment of third-country nationals, fighting against racism and xenophobia, the need for more efficient management of migration flows, fighting illegal immigration and combating terrorism were also mentioned. The *Tampere Programme* (1999) called for finalising the work on Eurodac, as well as the cooperation of the Member States with a ‘new’ agency, Europol, which was established to fight criminal networks and to provide cooperation and mutual technical assistance of border control services (European Council, 1999).

As the Trevi cooperation was incorporated into the EU framework in the *Maastricht Treaty*, the same happened with the Schengen acquis in 1999. The intergovernmental cooperation presented in this section not only had a significant impact on the direction of European integration and the development of its policies but also became part of it. The idea of the creation of the free movement of people has since the beginning been perceived as an increase of risks of the terrorist threat, illegal immigration and other crimes, thus it cannot be claimed that perception of the connection between terrorism, migration and border control was solely brought by the 9/11 attack. The next section focuses on the EU response to this attack as well as those that took place on European soil later on.

3.2. The post-September 11 period (2001-2011)

There is no doubt that the 9/11 terrorist attack influenced the counter-terrorism policy in the United States and started the ‘war on terror’. Most scholars agree that this attack had a serious impact on the approach to terrorism not only in the USA but also in Europe (den Boer and Monar, 2002; Baldaccini, 2008; Coolsaet, 2010; Cinoglu and Altun, 2013; Baker-Beall, 2016). However, terrorism was nothing new at that time. As Coolsaet (2010, p. 857) points out, “Europe did not wake up to terrorism on 9/11”, as many of the EU countries experienced many kinds of terrorism before. Still, this attack changed the approach to terrorism, as from a crime that used to be tackled within the national borders it became an international problem that transcends borders and requires cooperation among the Member States (Coolsaet, 2010). While this section starts with the EU response to the 9/11 attack, it looks at the evolution of the counter-terrorism, migration and border control policies and the connection between them until 2011, considering the impact of the attacks in Madrid (2004) and London (2005).

On 21 September 2001, so in the immediate aftermath of the 9/11 attack, an extraordinary meeting of the European Council took place. In the *Conclusions and Plan of Actions* (2001) of this meeting, the EU calls the attack a ‘barbaric act’ that was “an assault on our open, democratic, tolerant and multicultural societies” (European Council, 2001, p. 1). Terrorism is presented in this document as a real challenge to the World, Europe and every human being. What is important, the fight against terrorism became a priority for the EU and not only terrorist groups were considered the enemy but also every state “abetting, supporting or harbouring terrorists” (European Council, 2001, p. 1). While the action plan refers to the adoption of five measures (enhancing police and judicial cooperation²⁰, developing international legal instruments, putting an end to the funding of terrorism, strengthening air security and coordinating the European Union’s global action), it does not link the attack to migration management or border control (European Council, 2001). Moreover, already in the third paragraph, it is said that: “(...) the European Union categorically rejects any equation of groups of fanatical terrorists with the Arab and Muslim world”, and later on that:

²⁰ The enhancement of police and judicial cooperation included among others creation of a specialist anti-terrorism team in Europol which even though was established in 1992 by the *Maastricht Treaty* and became operated in 1994, had only Drugs Unit (EDU). Its mandate was gradually expanding since 2001 (see Bures, 2006).

“[t]he European Council emphasises the need to combat any nationalist, racist and xenophobic drift, just as it rejects any equation of terrorism with the Arab and Muslim world.” (European Council, 2001, p. 1).

As den Boer (cited in Baker-Beall, 2016) points out, the terrorist attacks and the sense of emergency provided a ‘window of opportunity’ to the EU to develop its position as the security actor. Hence, the *Framework Decision on Combating Terrorism* (2002) for the first time presented the definition of a terrorist group and listed nine terrorism offences (European Communities, 2002, p. 4). Nevertheless, while 9/11 took place in the US, the EU was at the time also facing different problems (Argomaniz, 2009). This is visible in the *Conclusions from Seville*, where apart from the declaration about determination to combat terrorism, which requires “solidarity and international cooperation to fight against that scourge”, counter-terrorism policy was not given that much attention. More consideration was given there to migration and, especially, to illegal migration (European Council, 2002, p. 31). While the European Council stated that it is crucial that migration flows were managed in accordance with the law and in cooperation with the countries of origin and transit, it claimed that combating illegal immigration requires a greater effort and usage of the instruments from external relations.

In 2003 the *Dublin Convention* was replaced by the *Dublin Regulation (Dublin II)* to address its inadequacies and establish a mechanism for a swift determination of a member state responsible for examining an asylum application. Nevertheless, as pointed out by Schuster (2011) the changes were not significant and maintained the basis of not allowing asylum seekers to choose where to apply for asylum. An important role in determining the responsible country was, however, to be played by the Eurodac system established for the purpose of comparing fingerprints taken from asylum seekers. While the Dublin system was not only to prevent ‘asylum shopping’ but also the situation of refugees ‘in orbit’, as argued by Schuster (2011), it lowers the chances of asylum seekers for a successful claim. The Dublin system puts also great pressure on the first entry Member States, which are not always capable to meet their responsibility while allowing other countries to avoid their moral obligation. Thus it can again be seen that asylum seekers continued to be considered by the Member States as a ‘problem’.

In the same year as the *Dublin Regulation*, the *European Security Strategy* (2003) was adopted. It points out five key threats for the European Union that are “more diverse, less visible and less predictable” (Council of the European Union, 2003, p. 3). Respectively, it listed terrorism, proliferation of weapons of mass destruction, regional conflicts, state failure and organised crime (Council of the European Union, 2003). What is significant, terrorism was not only placed as the first one but also was referred to in the description of each of the threats. Moreover, the document refers also to the trafficking of illegal migrants as one of the activities of criminal gangs. The seriousness of terrorism which poses an existential threat to the whole of Europe and cannot be tackled by states individually was significantly stressed in this *Strategy*. Security was pointed out as a precondition of development and it was claimed that “conflict prevention and threat prevention cannot start too early” (Council of the European Union, 2003, p. 7). While the *European Security Strategy* (2003) notes that Europe can not only be a target of terrorism but also a base for it, it describes the EU as “so prosperous and so free” as never before and as a Union of “secure, stable and dynamic democracies” that want to deal “peacefully with disputes and cooperate through common institutions” (Council of the European Union, 2003, p. 3).

While so far, in the analysed documents adopted after 9/11, migration or border control were not explicitly linked to the terrorist threat, it changed in 2004. On March 11, the Madrid train bombings took place. Shortly after, the EU released the *Declaration on Combating Terrorism* (2004) which played an important role in the development of the linkage between terrorism, migration and border control. As the attack was conducted by Islamist, non-EU nationals (mostly) on the EU’s soil²¹, the perception of terrorism changed: the threat became more real. The EU called in the *Declaration* (2004) for urgent implementation of measures agreed in the *Plan of Action* from 2001 and preparation of a long-term strategy. It declared to do everything within its power to combat terrorism, which included dealing with the root causes of terrorism and engaging in political dialogue with the third countries but mainly, it was to focus on border control measures (European Council, 2004). As Léonard (2010b, p. 35) points out, this *Declaration* (2004) “represented a turning point with regard to the use of migration controls in EU counter-terrorism”. The importance of strengthening border control and document security, which were one of the chapters of the *Declaration* (2004), and the need for accelerating actions in these areas were strongly emphasised.

²¹ At the beginning also Basque separatist group ETA was suspected, but al Qaeda claimed its responsibility.

First of all, the EU called for proposals on increasing interoperability between European databases such as Schengen Information System (SIS) II, Visa Information System and Eurodac. Secondly, the Council was invited to consider the criteria stated in Article 96 of the *Schengen Convention* which applied for purpose of being refused entry. Among other measures, the establishment of the European Borders Agency that would be operational the next year as well as the adoption of a *Directive on the obligation of carriers to communicate passenger data* (proposal) was proposed. Besides that, the European Council (2004) wanted the Council to adopt the proposal for the incorporation of biometric features into passports and visas and the introduction of new functions for the SIS. While all these measures are clearly a part of border control, since 2004 they have started to become important tools in the fight against terrorism. Their importance was demonstrated also by including “effective systems of border control” into strategic objectives for the EU to combat terrorism that were listed in Annex 1 of the *Declaration* (2004) (European Council, 2004, p. 15).

The Madrid bombing has enhanced the EU’s focus on counter-terrorism. Although the EU has been regularly stating that terrorism poses a threat to all countries and nobody can feel safe, it was nevertheless a shock. The *Declaration* (2004) described the terrorist attacks as “callous and cowardly” and asserted that there will be “neither weakness nor compromise of any kind when dealing with terrorists” (European Council, 2004, p. 1). Apart from the above-mentioned border control measures, the European Council called for reinforcing Europol counter-terrorism capacities (ensuring that it is provided with law enforcement authorities), reactivating the Counter-Terrorist Task Force, implementing Europol Information System and establishing an integrated system for the exchange of information on stolen and lost passports (European Council, 2004). Terrorism has become such an important matter that it was declared that the commitment of non-EU countries to combat it will be evaluated and will influence the EU relations with them.

As the *Declaration on Combating Terrorism* (2004) was adopted, also the *Plan of Action* from 2001 was revised. Unlike the first version, this revised *Plan of Action on Combating Terrorism* (2004) referred to border control and classified it as one of seven strategic objectives. According to this document, the protection of “the security of international transport and ensuring effective systems of border control” was to be achieved by several documents, including: The Draft Regulation Establishing a European Borders Agency; The Draft Council Regulation on standards for security features and biometrics in EU citizens

passports; and The Common EU approach to the use of passenger data for border and aviation security and other law enforcement purposes (Council of the European Union, 2004, pp. 54-61).

As postulated in the *Declaration on Combating Terrorism* (2004) and mentioned in the *Revised Action Plan* (2004), in October 2004, the *Regulation on establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union* (Frontex) was adopted. The *Regulation* argued that the high level of control and surveillance is fundamental for the area of freedom, security and justice. Although this agency did not take over from the Member States when it comes to control and surveillance of external borders, considering the delicate matter of border control, it was a significant step in the integration process. Frontex was established to improve the integrated management of external borders by facilitating and coordinating the cooperation between the Member States. Its tasks included: coordination of operational cooperation between the Member States, assistance in training national border guards, carrying risk analysis, following-up research on the developments related to border control and surveillance, assistance at external borders when required and support in joint return operations (European Union, 2004, p. 4).

The establishment of Frontex and its activity was subject to a number of important studies (Carrera, 2007; Neal, 2009; Léonard, 2010a; Horii, 2016). Neal (2009), for instance, claims that, although the EU response to 9/11 exposed the securitising links between the policies analysed, Frontex was not a result of the securitisation of migration. It was argued that it became a technocratic project that took several years to be achieved and would also have been achieved without 9/11, therefore, there is a lack of a sense of urgency in its establishment (it did not follow the classic logic of securitisation) (Neal, 2009). Whereas Neal's argument is underpinned by the Copenhagen School's securitisation theory, the difficulties of applying this theory to the EU context should be considered. Although the sense of urgency in establishing Frontex disappeared in 2003, the Madrid attack brought it back in 2004 (as visible in the *Declaration on Combating Terrorism*). While, based on the analysis of documents conducted in this chapter, it cannot be determined if indeed the Madrid bombing in any way accelerated its creation or impacted its competencies, the meaning of 'urgency' should be adapted to the EU context. Moreover, the establishment of Frontex shall be also considered from the perspective of Paris School.

As Vaughan-Williams (2008, p. 66) points out:

“the role of Frontex and integrated border security has also been presented as a specific solution to the problem of the need to respond to the threat of terrorism in the EU since 9/11”.

Indeed, Frontex Work Programmes for 2005 and 2006 have been focused on “fighting irregular migration and trafficking of human beings” as well as “on supporting activities against international terrorism by means of border control” (Carrera, 2007, p. 17). Léonard (2010a), while analysing Frontex’s activities, claims that they significantly contribute to the securitisation of migration in the EU. For instance, measures such as the integrated risk analysis model indicate that migrants are considered as a risk for the borders and can pose a threat (Horii, 2016). The usage of the word ‘risk’ instead for example ‘data’ or ‘information’, attaches migration to security matters (Léonard cited in Horii, 2016). Moreover, the cooperation between Frontex and Europol should also be pointed out as it may suggest the linkage between border control and terrorism (see Chapter 5).

In 2004, another (after Tampere) multi-annual programme was adopted. The *Hague Programme* (2005) established goals in the area of Justice and Home Affairs for the period of 2005-2009. A very simple summary of it was presented by Bigo (2006, p. 42) who says:

“[i]f I were to jump immediately to the conclusion of my argument, I would suggest saying that we need to adapt the titles to their actual content by renaming the three parts: 1. strengthening security, 2. strengthening security, 3. strengthening security”.

Indeed, strengthening security is a focal point of this document. At the beginning of the *Programme*, as a kind of legitimisation of the strengthening of security that can be observed in the rest of the document, it is stated that the European citizens expect the EU to be more effective in providing security, which is understood as the EU’s ability to fight illegal migration, trafficking and smuggling of human beings as well as terrorism and organised crime. A “new urgency” in this matter was claimed due to the 9/11 attack as well as the Madrid bombing in 2004 (European Union, 2005, p. 1). While it is declared there that it has to take place with respect for fundamental freedoms and rights, the understanding of freedom has been criticised by some scholars. Balzacq and Carrera (2006) point out that security took priority over freedom in the *Hague Programme* (2005) and that it was expected that fighting

threats such as terrorism, illegal migration, human and drug trafficking will provide more freedom (not the opposite).

The *Hague Programme* (2005) claims that “freedom, control at the external borders, internal security and the prevention of terrorism should henceforth be considered indivisible within the Union as a whole” (European Union, 2005, p. 3). Indeed, these areas are very connected in this document. As pointed out by Bigo (2006, p. 43), an interesting matter is the fact that in the chapter on strengthening freedom almost all sections are focused on limits, restriction, control and monitoring. Further, the *Programme* (2005) claims a need for establishing “a continuum of security measures that effectively links visa application procedures and entry and exit procedures at external border crossings”, which would be important for the “prevention and control of crime, in particular, terrorism” (European Union, 2005, p. 7).

As Baker-Beall (2016) highlights, this document significantly contributed to the creation of the connection between counter-terrorism, migration and border control policies. Among others, Europol and Eurojust were invited to work closely with Frontex regarding migratory routes, smuggling and tracking as well as criminal networks. Frontex was also to become involved in the fight against terrorism by cooperating with Europol to set up a network of national experts on combating terrorism. Moreover, the Council was invited to establish teams that could provide rapid technical and operational assistance to the Member States on the borders if necessary according to risk analysis. The assumed connection between migration, border control and terrorism can be also noticed in the following statement:

“To gain practical experience with coordination in the meantime, the Council is invited to organise a joint meeting every six months between the chairpersons of the Strategic Committee on Immigration, Frontiers and Asylum (SCIFA) and the Article 36 Committee (CATS) and representatives of the Commission, Europol, Eurojust, the EBA, the Police Chiefs' Task Force, and the SitCEN” (European Union, 2005, p. 10).

While the intergovernmental cooperation was typical for the early stages of European integration, an example of this is also the *Convention on stepping up of cross-border cooperation particularly in combating terrorism, cross-border crime and illegal migration* (*Prüm Convention*), signed in 2005. The idea came from the German Minister of the Interior,

Otto Schily already in June 2003 (Luif and Trauner, 2014). The *Prüm Convention* was initially signed by only seven Member States but was open for the rest and was aiming to be incorporated into the legal framework of the European Union, which happened a few years later²². Balzacq et al. (2006a) point out that in practice it would mean that the new Member States joining the *Prüm Convention* (2005) would have to follow the rules adopted by the founding countries. This stepping up of cooperation was essentially based on the increasing exchange of information. Although the *Prüm Convention* (2005) did not directly imply that migration is connected with terrorism, it claimed that this increase of information exchange is necessary due to the creation of the area of free movement. Nevertheless, Balzacq et al. (2006a, p. 1) claim that the *Prüm Convention* (2005) was actually “a significant countervailing political force against the European Union’s area of freedom, security and justice”. Moreover, the fact of bringing this cooperation outside the EU legal framework and not using the EU procedure for enhancing cooperation, where a minimum of eight Member States would be necessary, gives the matter a sense of urgency and indicates that the EU actions were not perceived as sufficient for the size of the threat.

The *Prüm Convention* (2005) introduced several new measures, including, automated searches by comparing DNA profiles, fingerprints data and vehicle registration data. The exchange of data reflected the adoption of a strongly preventive attitude that can be seen in, for example, statements like the following one about providing personal data:

“if any final convictions or other circumstances give reason to believe that the data subjects will commit criminal offences at the event or pose a threat to public order and security” (Council of the European Union, 2005b, pp. 10-11).

This practice of providing information to the National Contact Points (NCP) in the signatory states is similar to the one used by Trevi Group, called Bureau de Liaison (BdL) network. However, as Balzacq et al. (2006a) point out, the *Prüm Convention* (2005) has gone further because BdL exchanged information only (at least formally) about terrorist attacks that have already occurred in the Member States, not about potential future attacks. Moreover, following the logic of the observation of Emmanuel-Pierre Guittet, they stated that although for the sufficient reason to transfer personal information was considered just a ‘belief’ that the person can pose a threat to public order, what this ‘threat to public order’ meant was not specified (Balzacq et al., 2006a). Another preventive instrument introduced by the *Prüm*

²² Not all provisions of the *Prüm Convention* were incorporated into EU legal framework (see Luif & Trauner, 2014).

Convention (2005) was the deployment of air marshals on the aircrafts who were defined as “police officers or other suitably trained officials responsible for maintaining security on board aircraft” that should be allowed to carry arms, ammunition and equipment (Council of the European Union, 2005b, p. 12)(Council of the European Union, 2005b). This definition, however, as pointed out by Balzacq et al. (2006b), was very broad and left the possibility to use the military or private sector for this task, which further securitises travel and migration.

Among measures to combat illegal migration, the *Prüm Convention* (2005) introduced the seconding of document advisors to states considered as the source or transit countries for illegal migration and regular exchange of information on illegal migration based on their work. What this meant is that a person could be defined as an illegal immigrant even before becoming a migrant and arriving on EU territory (Balzacq et al., 2006b). This preventive attitude of the *Convention* (2005) contributes to the construction of migration as a threat. As Balzacq et al. (2006b) point out, the *Prüm Convention* (2005) complied with belief that ‘more security is better’ by increasing the number of databases, whereas the problem is not with the amount of shared data but with doing it incorrectly in different fora.

In July 2005 another terrorist attack took place on European soil, this time in London. Four months later the *EU Counter-Terrorism Strategy* (2005) was adopted. It is based on four pillars: Prevent, Protect, Pursue and Respond. The *Strategy* (2005) repeated that terrorism is a threat to everybody so Member States have to focus on the security of the whole Union, especially with the openness of the EU that attracts terrorists. It was also again indicated in the *Strategy* that terrorism has roots “in many parts of the world beyond the EU” thus it is visible that it was perceived as a problem coming from outside (Council of the European Union, 2005c, p. 7). This ‘outside’ was understood as countries with “poor or autocratic governance, rapid but unmanaged modernisation, lack of political or economic prospects and educational opportunities” (Council of the European Union, 2005c, p. 9). The *EU Counter-Terrorism Strategy* (2005) presents two important trends in the counter-terrorism policy in the EU: the perception of prevention, which became one of the pillars of the policy, and the focus on border control, which was the main aspect of protection. Indeed, ‘border control’ is presented there as one of the most important measures in the fight against terrorism and was concerned with the usage of surveillance and data exchange (biometrics in EU passports, VIS, SIS II).

Just a few days after the *EU Counter-Terrorism Strategy* (2005), also the *Strategy for the*

External Dimension of JHA (2005) was adopted. It echoed many statements from the *EU Counter-Terrorism Strategy* (2005), for example, the need to address threats such as terrorism, organised crime, corruption and drugs, as well as the importance of work in the introduced four pillars due to the international character of terrorism and the connection between external and internal security. Nevertheless, the *Strategy for the External Dimension of JHA* (2005) also referred to the ‘challenge of the migration flow’. Although it was mentioned that effectively managed migration can be beneficial for migrant’s origin and receiving country, most attention was put on ways of fighting illegal immigration by strengthening border controls, improving travel document security and combating smuggling and trafficking of persons (Council of the European Union, 2005a). Whereas this *Strategy* (2005) did not add new measures, it consolidated the perception of a link between terrorism, migration and border control.

As mentioned in the *EU Counter-Terrorism Strategy* (2005), the Schengen Information System was to be replaced by its second-generation version (SIS II). The *Council decision on the establishment, operation and use of the second generation Schengen Information System* was adopted in 2007 and SIS II was launched in 2013. While the aim of SIS II remained the same, it introduced several changes, for instance, the usage of biometrics, the linking of different alerts and direct queries on the system. Another notable point is the right to access SIS II: in addition to the border control authorities and others that are responsible for police and customs checks, also Europol gained access to alerts, which can again indicate a link between border control and counter-terrorism. SIS II (2007) was also to follow the preventive logic, as according to article 36, paragraph 2, the alert in the system could be issued:

“(…) for the purposes of prosecuting criminal offences and for the prevention of threats to public security” because of just “clear indication” of intention to commit a serious crime or because of a reason to suspect that a person will commit it from “an overall assessment”, especially from previous crimes (European Union, 2007a, p. 75).

2007 was also an important year for the history of European integration due to the signing of the *Lisbon Treaty* which amended the *Treaty on European Union* and the *Treaty Establishing the European Community* after the failure of the *Constitutional Treaty*. While

the *Lisbon Treaty* (2007) brought little to migration policy and even less to counter-terrorism, it repeated the importance of measures in these policies for the area of freedom, security and justice. It replaced the “Title IV on visas, asylum, immigration, and other policies related to free movement of persons” with the heading ‘Area of Freedom, Security and Justice’ divided into: “Chapter 2: Policies on border checks, asylum and immigration”, “Chapter 3: Judicial cooperation in civil matters”, “Chapter 4: Judicial cooperation in criminal matters”, and “Chapter 5: Police cooperation” (European Union, 2007c, p. 57). While the matters of migration and terrorism were split into separate chapters, they continued to be perceived as linked due to the free movement of people.

In 2009, another five-year plan, that updated the *Hague Programme*, was adopted. The *Stockholm Programme* (2009) was titled “*An open and secure Europe serving and protecting the citizens*”, which can indicate its continued focus on security in the area without controls at the internal borders. As Baker-Beall (2016) point out, although the ‘openness’ of Europe was not explicitly linked with a greater terrorist threat, access to Europe remained an important concern. While the *Stockholm Programme* (2009) put significantly more attention on citizens and fundamental rights, which was the first of the priorities mentioned in this document, it stated that “ensuring respect for fundamental rights and freedoms and integrity of the person while guaranteeing security” will be a challenge (European Union, 2010, p. 4). Other priorities of the *Programme* (2009) regarded law and justice, protection, access to Europe, migration and asylum matters as well as the role of Europe in a globalised world. In the matter of access to Europe, the EU emphasised the importance of facilitating access to its territory for legal migrants. Nevertheless, the security-orientated attitude can be visible in this matter. Already at the beginning of that section, it was stated that this facilitation must go together with maintaining security. Moreover, priority in access to Europe would be given to vulnerable persons such as asylum seekers and unaccompanied minors. In this regard, the European Council expected a strengthening of the position of Frontex and further development of the European Border Surveillance System (Eurosur) to better and more efficiently control the migration flow, as “in order to maintain credible and sustainable immigration and asylum systems in the Union, it is necessary to prevent, control and combat illegal immigration” (European Union, 2010, p. 5). The European Council further recognized the benefits of migration for the EU, especially in relation to the demographical and labour situation. Nevertheless, the main attention was put on combating illegal immigration. Thus it was argued that more cooperation on surveillance and border controls, facilitation of

readmissions as well more coherent coordination between EU agencies, among others, Europol and Frontex, is needed. Although, as pointed out by Karamanidou (2015), it was stated in the *Stockholm Programme* (2009) that border management should not prevent legal migration to the EU, it repeatedly referred to the maintenance of security and crimes prevention. What is important, the *Stockholm Programme* (2009) was not only criticized by scholars. The European Civil Liberties Network (cited in den Boer, 2015, p. 138) demanded its rejections because, as it claimed:

“[the EU had] taken a dangerously authoritarian turn, putting in place militarized borders, mandatory proactive surveillance regimes, and an increasingly aggressive external security and defence policy”.

In the context of protection of the EU, the *Stockholm Programme* (2009) called for, among others, the establishment of the *Internal Security Strategy*, the strengthening of the cooperation in border management, enhancing information exchange and the evaluation of the necessity to develop a European Information Exchange Model, as well as, for reinforcement of the prevention strand from the *Counter-Terrorism Strategy*. The *Stockholm Programme* (2009) however repeated that no particular group of people should be stigmatised in connection with terrorism²³. The *Internal Security Strategy* with the subtitle: *Towards a European Security Model* was adopted in 2010. At the very beginning of the document, after presenting the achievements of the Union, it was stated that security is one of the main priorities for the European citizens. Thus once again, the EU referred to citizens to legitimise the document's focus on strengthening security. Among the main threats, which “undermine the values and prosperity of our open societies” (Council of the European Union, 2010, p. 7), the *Internal Security Strategy* (2010) pointed out terrorism in the first place. Moreover, it was claimed in this *Strategy* that it is the EU's prosperity, free movement and democracy that attracts terrorists. According to Baker-Beall (2016), the EU's open society was thus constructed as a threat and an opportunity. In other words, this ‘openness’ of the society is what makes it ‘vulnerable’ to terrorist attacks (Baker-Beall, 2016).

The *Internal Security Strategy* (2010) also pointed out addressing illegal immigration and integrated border management as key for the EU security. In this respect, the *Strategy* (2010)

²³ Similar claim was included in the *Conclusions and Plan of Actions of the Extraordinary European Council Meeting on 21 September 2001*.

referred to Frontex's cooperation with other agencies and technology as especially important. It was claimed in the documents that the new technology not only provides security by preventing access to the EU to people and goods that pose risk, but it also makes travel easy and quick for its citizens. Nevertheless, although security was presented as a basis of European society and the importance of strengthening control and prevention (one of the main objectives) was stressed, it was also noticed in the *Internal Security Strategy* (2010) that something like 'zero risk' does not exist (Council of the European Union, 2010, p 12).

This section has demonstrated that the post-9/11 period was the time when the EU has become more active in the policies analysed, especially in counter-terrorism. While until the attack in Madrid (2004) border controls have not been given much attention in counter-terrorism, this changed and they not only have been more and more frequently referred to, but also have been claimed to be important measures. Terrorism was presented as an important threat that comes from outside the EU and requires prevention. Moreover, the EU continued to demonstrate the perception of the existence of the link between terrorism, migration and border control. The following section focuses on the evolution of analysed policies after 2010.

3.3. The 'Arab Spring' and 'Migration Crisis' (2011-2017)

This section presents the EU documents that were published between 2011 and 2017 and were influenced by several important events such as terrorist attacks and significant migration flows. While the time frame for this section is significantly shorter than for the previous ones, this period was the time of special EU activeness in the matters analysed in this thesis. Especially in recent years, terrorism, migration and border control were put at the top of the EU agenda. The section thus refers to the events of December 2010 in Tunisia that resulted in what became termed the 'Arab Spring', to terrorist attacks from 2011 and 2012 that were conducted by the 'lone wolves', to the migration flow and the events at the Italian Island of Lampedusa in 2011 and 2013 and to the increase in the asylum seekers application in 2015-2017 termed as the 'Migration Crisis', as well as to the terrorist attacks that occurred at that time.

What became termed the 'Arab Spring' started with the demonstrations against the local authorities in Tunisia which have shaken the regimes in the Arab world. Extensive turmoil

took place in Egypt, Libya, Syria, Yemen. These rebellions resulted in an increase in migration, for example to the Italian island, Lampedusa. This flow of migration and the ‘Arab Spring’ motivated the revision of the *Global Approach to Migration* (2005). The new *Global Approach to Migration and Mobility (GAMM)* was adopted in 2011. It promoted a focus on migrants as on people, not on “‘flows’, ‘stocks’ and ‘routes’” (European Commission, 2011a, p. 6). The *GAMM* (2011) acknowledged that migrants should be informed about their possibilities, rights and responsibilities. Moreover, the importance of legal migration was again recognized, however in the economic aspect mainly. It was claimed there that despite the economic crises the EU was still facing at that time, the labour market required workers from third countries as the vacancies could not be filled by domestic labour forces. The EU also realised the problem with migrants’ integration into the labour market. This supportive attitude was however motivated by employers’ needs in specific sectors. Whereas this approach could lead to another problem such as ‘brain drain’ - an outflow of talented people from the third countries to Europe, the EU acknowledged it and proposed close cooperation with the relevant third countries (European Commission, 2011a).

Along with this stand on legal immigration, the *GAMM* (2011) referred also to border controls and illegal migration. An important change in this aspect was the replacement of the term ‘illegal’ with ‘irregular’ immigration. Nevertheless, it was claimed that without effective border controls as well as return policy, the EU will not be able to provide more possibilities for legal migration. Furthermore, migration was explicitly presented as a matter of security. In this regard, the EU again argued a need for further cooperation between the EU agencies on information exchanges on migration and organised crime.

As observed by Vaughan-Williams (2015), the *GAMM* (2011) portrays a dual perception of a migrant. On one hand, they are represented as “a political subject whose life is threatened and must be protected, saved, and empowered by EU border security apparatuses” (Vaughan-Williams, 2015, ch. 2, p. 4). Accordingly, under the third pillar of the *GAMM* (2011), section “Promoting international protection and enhancing the external dimension of asylum policy” includes priorities such as “enhance[ing] the resettlements in the EU” or “building asylum capacity in non-EU countries” (European Commission, 2011a, p. 18). On the other hand, however, migrants are also presented as a threat as it can be seen in the following statement:

“A broad understanding of security means that irregular migration also needs to be considered in connection with organised crime and lack of rule of law and justice, feeding on corruption and inadequate regulation” (The European Commission, 2011a, p. 15).

In order to eliminate this threat, the *GAMM* (2010) proposed among others: ensuring returns and readmissions, strengthening integrated border management, increasing documents security, monitoring the implementation of directives on employer sanctions and more exchange of information (European Commission, 2011a, pp. 15-17). As Vaughan-Williams (2015) notices, these discourses of humanitarianism and securitisation are not new in the EU but increased particularly during the ‘Arab Spring’, which, as demonstrated in the discussion below, was visible for instance, in the case of establishing Eurosur.

In 2011 and 2012, Europe faced two terrorist attacks that influenced the EU counter-terrorism policy. The first attack took place in Norway and was conducted by the right-wing extremist Andres Breivik (22.07.2011). Breivik detonated a bomb that was located in a van outside Regjeringskvartalet killing 8 persons and then, in a massacre lasting 4 hours at the annual summer camp, shot and killed 69 persons. Behind these attacks was Breivik’s desire to defend Norway in a war against Muslims and multiculturalism. Secondly, in March 2012, Mohammed Merah, an Islamist extremist, killed seven people in Montauban and Toulouse (French Army soldiers and children with a teacher at a Jewish school). During the attack, Merah was wearing a camera to make a video of these attacks with music and verses from the Koran. Both attacks were defined as committed by “lone wolves” which means that they were conducted by individuals alone.

After these attacks, a document titled *Preventing lone actor terrorism – Food for thought*, was published in 2012. As stated at the beginning of the document, while these kinds of terrorist attacks are a small part of the total number, the threat coming from them was presented as serious. There are two key aspects to consider regarding this document. First of all, it referred to both Breivik and Merah and even pointed out that lone actors come from different political and ideological backgrounds. Nevertheless, it can be noticed that ‘lone wolves’ are considered to be mainly connected to the Islamic World. This is reflected by the fact that Al Qaeda was directly referred to as an actor that provides “encouragement and inspiration” to ‘lone wolves’ (Council of the European Union, 2012, p. 1), while Breivik’s

anti-Muslim rhetoric was skipped. This negligence of threat coming from anti-Muslim rhetoric can be explained by Baker-Beall's (2016) claim that terms such as 'radicalisation' or 'countering violent extremism' are associated in public discourse with 'Islamist inspired terrorism'.

Second, the document *Preventing lone actor terrorism – Food for thought* (2012) includes also a section on "Foreign fighters and returnees" and claims that many 'lone wolves' went to the conflict areas and received training at the terrorist camps (Council of the European Union, 2012, pp. 8-10). Indeed, in 2014, around 1,900 individuals from Western European countries travelled to Syria and became opposition fighters (Hennessy, 2014). Due to this, the document claims a need for detection and control of people who went and came back from the conflict zones by, among others, border control tools such as: Visa, Passenger Name Record (PNR), improvement of document checks and document security, exchange of information, better international cooperation and applying "an early warning mechanism" to SIS (Council of the European Union, 2012, pp. 8-10). This statement again suggests that radicalisation and terrorism come from outside the EU, from Muslim countries²⁴ because even though potential lone actors can live in the EU, the 'inspiration' comes from outside, which can have direct implications for migration. It means that every migrant coming from the conflict zone can be a potential threat.

In 2013 the EU adopted several important regulations in the area of migration management and border control as well as the *Directive on Common procedure on granting international protection*. Starting with this *Directive* (2013), there are a few points made in this document that should be mentioned. First, the *Directive* (2013) instructed that the interviews with asylum seekers should be conducted by persons not wearing a military or enforcement uniform (Council of the European Union, 2013a). This is significant as wearing this kind of uniform at different stages of contact with migrants is one of the ways of constructing them as a security threat. Second, the *Directive* (2013) pointed out that applicants should not be held in detention only because of their applicant status (Council of the European Union, 2013a). Third, while migrants applying for international protection as well as their belongings can be searched by competent authorities, the search should be conducted with respect for human dignity and physical and psychological integrity, however only without

²⁴ The document *Preventing lone actor terrorism – Food for thought* (2012) mentioned Somalia, Afghanistan, Pakistan, Yemen.

prejudice to search conducted for security reasons. All these points, even those suggesting positive change, as in the case of remark on the uniforms, indicate that practices which present migrants as a threat: interviews with persons in military/enforcement uniforms, detentions, security searches could have taken place.

Moreover, the *Directive* (2013) allowed the Member States to conduct a relatively fast-paced examination of the application for international protection at the border or in the transit zone in cases when the applicant may:

“for serious reasons, be considered a danger to the national security or public order of the Member State, or the applicant has been forcibly expelled for serious reasons of public security or public order under national law” (Council of the European Union, 2013a, p. 79).

The *Directive* (2013) did not, however, define ‘serious reasons’ which can lead to a risk of abuse of this clause.

The same day, on June 26, 2013, also another revision of the *Dublin Regulation* (*Dublin III*) and, to ensure its effective application, the *Regulation on Eurodac*, were adopted. As pointed out by Léonard and Kaunert (2019, p. 104), *Dublin III* (2013) did not radically change anything and the responsibilities and rules remained the same. Nevertheless, they started to apply also to the ‘associated’ countries such as Norway. Moreover, some of the provisions from this *Regulation* are the same or similar to those from the *Directive on Common Procedure on Granting International Protection* (2013), for example, that asylum seekers should not be held in detention just because of their applicant status. It was, however, added there that it can take place if there is a risk of absconding and only if other measures would not be effective.

While Eurodac, which was firstly established in 2000 as a system for the comparison of fingerprints, was focused mainly on determining identity to facilitate determining a Member State responsible for the examination of asylum application, in 2013, it became a tool to fight terrorism. This new *Regulation on Eurodac* (2013) claimed that offering access to this database to law enforcement authorities is ‘essential’ for counter-terrorism purposes at the stage of both prevention and detection (Council of the European Union, 2013c, p. 2). Although systematic comparisons were not allowed and access to this data was restricted to

authorities responsible for terrorism and serious criminal offences only when there is “a substantiated suspicion that the suspect, perpetrator or victim of a terrorist offence or other serious criminal offence falls in a category covered by this Regulation” (Council of the European Union, 2013c, p. 15), as Léonard and Kaunert (2019) point out, it can be considered as a case of securitisation of migration. Whereas Vavoula (2015) argues that allowing this access indicates that “asylum seekers are a priori considered a group of people suspected of committing criminal offences”, it actually goes further, as they are not only perceived as a security threat and criminals but also specifically as a terrorist threat. Thus, the administrative tool that Eurodac was before adopting this *Regulation* (2013), became “an instrument of criminal intelligence gathering” (Vavoula, 2015, p. 260). What is important, Vavoula (2015, p. 271) also points out that:

“[t]here was no reference to existing cases in which there were reasonable grounds to assume that access to Eurodac would aid in the prevention, detection or investigation of terrorist attacks or other serious crimes. As the Joint Supervisory Body has noted, it did not see any evidence from the Commission to prove that such access was necessary”.

In October 2013, Lampedusa again experienced increased migration flow and was a place where almost 600 migrants from Eritrea, Somalia, Ghana and Syria lost their lives in two disasters that month. The first boat that carried around 500 passengers caught fire and sank. A week after, another boat capsized and sank. The same month, the EU adopted *Regulation on Eurosur* (2013), that is the European Border Surveillance System. According to the EU, its establishment was “necessary in order to strengthen the exchange of information and the operational cooperation” between the Member States and Frontex (Council of the European Union, 2013b, p. 1). Based on the art. 2 of the *Regulation* (2013), Eurosur has three purposes: 1. „monitoring, detection, identification, tracking, prevention and interception of unauthorised border crossings”; 2. “detecting, preventing and combating illegal immigration and cross-border crime”; 3. “contributing to ensuring the protection and saving the lives of migrants” (Council of the European Union, 2013b, p. 14). So, by being able to observe both external land and sea borders, Frontex and the Member States should be able to help migrants who are at risk of drowning as well as to fight illegal immigration and cross-border crime even before they arrive at European land, which indicates a preventive use of this tool. In this sense, Eurosur is another example that reflects the discourses of humanitarianism

(saving life) and securitisation (presenting it as a threat) pointed out by Vaughan-Williams (2015).

Nevertheless, some scholars disagree with the actual importance of saving migrants' life in the establishment of Eurosur. Rijpma and Vermeulen (2015, p. 1), based on their analysis of the origin of Eurosur, claim that Eurosur seems to be rather a “representative of the steady, technocratic development of a European system for border management” than a tool to answer to the events of the tragic loss of lives at sea. Doubts about this aim also expresses Statewatch, namely Heller and Jones (2014), because of the lack of obligation for the Member States and Frontex to search and rescue migrants when a vessel in distress is located and because the attention on that problem was mainly visible only at the late stage of the legislation process.

The adoption of the *Regulation on Eurosur* (2013) was followed by the *Regulation establishing rules for the surveillance* (2014) which repeated the same aims of the surveillance but also included an obligation to assist while a vessel in distress is found. It is stated in this *Regulation* (2014) that, based on international law, every vessel (not only Frontex's or national authorities') is required to provide assistance without delay regardless of nationality or status of the people and that persons doing so cannot be sanctioned for it. Further, no person can be then sent to a country that would be in danger of facing serious threat according to the non-refoulement principle (European Union, 2014).

In case a vessel suspected to be smuggling illegal migrants or will try to avoid border control is detected, according to the *Regulation* (2014), the International Coordination Centre must be notified, and if the vessel is in the territorial waters of the Member States, it can be searched and persons on board questioned (European Union, 2014). It should be noted that the reasonable grounds to suspect smuggling of migration were not much addressed which can leave space for preventive actions.

In order to address the threat of foreign fighters, in 2014, the *Draft Revised EU Strategy for Combating Radicalisation and Recruitment to Terrorism* was prepared. While it repeated the serious threat that is posed by terrorism to the EU, its citizen and residents, it recognized its changing nature. What is important, it postulated a need for “a balanced approach between security-related measures and efforts to tackle those factors that may create an environment

conductive to radicalisation and recruitment to terrorism” (Council of the European Union, 2014, p. 4). Moreover, it noted that the “stigmatising of any particular group of people must be avoided” (Council of the European Union, 2014, p. 5). Nevertheless, despite recognising the fact that terrorist attacks have been committed by people from Europe, it was claimed there that the attacks “have often had connections outside Europe”: been planned, funded or conducted by third-country nationals or people trained abroad (Council of the European Union, 2014, p. 13). Therefore, the attention in terms of counter-radicalisation remained to be focused on the outside.

In 2014, also the new strategic guidelines for the area of freedom, security and justice for 2015-2020 were adopted and presented in the *Conclusions of the European Council* (2014). In comparison to the previous *Stockholm Programme* (2009), which was criticised for being too long and too detailed, the new guidelines were short and general (Léonard and Kaunert, 2016). In the context of ‘A Union of freedom, security and justice’, there were 3 very broadly understood priorities set: better management of migration, prevention and combating crime and terrorism, and improving judicial cooperation. The *Conclusions of the European Council* (2014) claimed that the answer to the challenges the EU faces in this area is cooperation with relevant third countries. With regard to combating serious crime and terrorism, the need for a review of the *Internal Security Strategy*, better information exchange, a comprehensive approach for cybersecurity and the prevention of radicalisation were pointed out. Nevertheless, most of the attention was put on migration. The *Conclusions of the European Council* (2014) defined as ‘essential’ addressing the root causes of irregular migration and its prevention in order to save migrants' lives. It was believed that to manage the migration flow it is necessary to cooperate with third countries and help them to strengthen their migration and border management capacity (European Council, 2014). Nevertheless, as pointed out by Carrera and Guild (2014, pp. 10-11), “for these third countries security-related aspects may be interpreted as an allegation that their citizens are potential criminals”, especially when readmissions and returns policy are added to the above.

Further, due to the lack of control at internal borders, the EU should be using all available instruments and modernising them in order to protect the external borders (European Council, 2014). While the document does not introduce new tools, it suggests, for example, updating visa policy or, in the context of Frontex, setting up a European system of border guards. Thus, these strategic guidelines could seem a bit surprising considering the situation

at the time. As Léonard and Kaunert (2019, pp. 144-146) state, the focus was put “on consolidation, rather than expansion” which left the EU without a serious strategy at very crucial times. Carrera and Guild (2014), claim that the guidelines followed the old Third Pillar attitude focusing on the interests of the Member States and failed to advance the developments in the area of freedom, security and justice.

While 2015 is considered to be the beginning of the ‘Migration Crisis’, the migration flows started to increase already before that time. Nevertheless, in 2015 an unprecedented number of around 1,322,800 asylum applications were submitted (Eurostat, 2019). While the ‘Arab Spring’ and previous migration flow led to rearranging of the EU approach to migration, the summer of 2015 has been widely described as shock and crisis. As Greussing and Boomgaarden (2017, p. 1749) state, the ‘Migration Crisis’ has “created a climate of uncertainty” regarding its implications. It brought various challenges, for instance, the irregular character of migration, which means that among migrants were both economic immigrants and asylum seekers. Such an intense inflow of irregular migration caused technical and operational problems on the borders, as the EU was not prepared to effectively conduct checks, examine the asylum application and relocate those who came. It prompted a discussion about solidarity among the Member States, uneven distribution of responsibility between first-entry countries and others, and even a question of leadership in the EU. Further, there was a problem of migrants dying on sea that led to the debate about human rights and humanitarianism in regard to the non-refoulement principle and the EU actions on sea such as the fight with smugglers and push-back operations that prevent migrants from applying for international protection.

The first document that was adopted in 2015, was the *European Agenda on Security*. According to this document, most of the security concerns that the EU was facing, were coming from neighbouring third countries. These concerns were considered too serious to be dealt with on the Member States' level and therefore a common approach was required. This document, like those mentioned above, puts significant attention on the third countries as an origin of the problems. This is reflected, for example, in the importance given to the deployment of security experts in some of the third countries or cooperation with third countries on the prevention of the root causes of security issues.

The *Security Agenda* (2015) recognised three priorities for the EU: terrorism, organised crime and cybercrime. The key to addressing them was to link internal and external security and to ensure closer cooperation between JHA and Common Security and Defence Policy (CSDP). What is important, this *Agenda* (2015) directly linked security matters to migration policy and border control:

“This Agenda has to be seen in conjunction with the forthcoming European Agenda on Migration, which will address issues directly relevant to security, such as smuggling of migrants, trafficking in human beings, social cohesion and border management” (European Commission, 2015a, p. 4).

In regard to terrorism, the *Security Agenda* (2015) referred to the terrorist attacks that took place in Paris, Copenhagen and Brussels, pointing out the problem with foreign terrorist fighters. It stated that the attention in that matter should be put on countering radicalisation by applying a preventive approach. The same approach was advised for the fight against migrant smugglers which was defined as key in preventing irregular migration and thus, preventing deaths at sea. It was also to be achieved through cooperation with the third countries (European Commission, 2015a).

As mentioned, the *European Agenda on Security* (2015) was to be seen in conjunction with the *European Agenda on Migration* (2015) which was to build a comprehensive approach that would consider all the benefits and challenges coming from migration. This document stated that some stereotyped approaches in the past, which focused only on some kinds of migration, ignored the complexity of this phenomenon. The *Migration Agenda* (2015) was then to present both positive and negative sides of globalisation. While it indeed noted the benefits that migration brings to the EU's societies, they were, as previously, linked to the demographic problems of the EU and shortages at the labour market.

The *European Agenda on Migration* (2015), in face of the increasing migration flow and tragic events at sea, referred to ‘emergency’ and the need for ‘immediate action’. The document recognised EU responsibility towards asylum seekers, however only towards those that have reached the EU soil as the preventative action against irregular migration remained a key part of the *Migration Agenda* (2015). It stressed the importance of border controls and actions that aim at preventing immigration. The *European Agenda on Migration* (2015) declared that:

“migration will become a specific component of ongoing Common Security and Defence Policy (CSDP) missions already deployed in countries like Niger and Mali, which will be strengthened on border management” (European Commission, 2015b, p. 5),

linking it to security matters. It claimed that in order to decrease the number of deaths at sea, Frontex and Europol need to work to better target vessels that can be smuggling migrants and control the internet to stop smugglers from contacting migrants. The *Migration Agenda* (2015) referred also to the importance of cooperation with third countries and declared that the European migration liaison officers will be seconded to third countries to gather, exchange and analyse information (European Commission, 2015b). Therefore, although the EU responsibilities were recognised, the attention was mostly put on decreasing the number of irregular immigrants and pushing the borders behind the EU territory.

The flow of asylum seekers in 2015 stressed the disproportionate strain put by the Dublin system on the southern countries. Overwhelmed by the situation, countries like Greece often did not enforce the *Dublin Regulation* allowing the asylum seekers to move to other countries, for example, Germany or Sweden which have been receiving the highest share of the asylum applications. Thus, the *European Agenda on Migration* (2015) also addressed the matter of the ‘Dublin system’ recognising that it was not working well despite its recent reform. It announced its evaluation and consideration of the necessity of another revision in 2016 (European Commission, 2015b). As a result, the European Commission presented a proposal of a new Regulation as a part of the reform of the Common European Asylum System (CEAS) (see European Commission, 2016c). Nevertheless, it was not adopted due to disagreements between the Member States. Moreover, the European Council on Refugees and Exiles (ECRE) raised some serious concerns regarding the direction of the reform (see ECRE, 2016) and the European Parliamentary Research Service pointed out that this proposal did not present a sufficient change – “a fundamental overhaul” suggested by the European Parliament since it did not change the criteria for determining member state responsible for the examination of the asylum application (Radjenovic, 2019, p. 1). While in 2015 South border and North Europe Member States were keen on changing the system and introducing a solidarity mechanism allowing for fairer relocation of asylum seekers between the Member States²⁵, the Visegrad countries, (especially Hungary, Poland and the Czech Republic) which have low numbers of asylum seekers, strongly opposed it to prevent an

²⁵ Germany and Sweden nevertheless opposed the solidarity mechanism in 2013.

increase of their share (Zaun, 2019)²⁶. Thus, even in the time of ‘crisis’, the Member States did not manage to change the fundamental principle of the Dublin system.

2016 was quite abundant in legislative acts. One of them was the *Regulation on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code)*. Its purpose was to set rules for border controls at the external borders of the EU. The *Schengen Borders Code (2016)* advised that all the controls conducted at the borders should respect human dignity and be carried out by persons trained in human rights. The aims of the checks on the border included combating illegal immigration, trafficking of people as well as preventing any threats to internal security, public policy, public health and international relations of the Member States. Furthermore, the border controls were not only understood as the checks on the border but also as surveillance of borders and risk analysis. An important point that was made in the *Schengen Borders Code (2016)* concerns an instruction that migration as such should not be treated as a threat to public policy or internal security even in large numbers (European Union, 2016b).

Besides the increased migration flow, at the time of the ‘Migration Crisis’, also terrorist attacks took place. Apart from these already mentioned in Paris (January 2015), Copenhagen (February 2015) and Brussels (May 2014), attacks also took place in Paris (November 2015), Brussels (March 2016), Nice (July 2016), Manchester (May 2017), and Barcelona (August 2017). These attacks together with the Islamic State’s claims that there are terrorists among immigrants (European Parliament, 2015), have unquestionably enhanced the attention put on security matters in the ‘Migration Crisis’. In April 2016, the European Commission adopted a *Communication on Stronger and Smarter Information Systems for Borders and Security* which referred to the attacks that took place in Paris (2015) and Brussels (2016). It covers ways in which border management and security can be improved by already existing information systems together with new measures. This document links migration with terrorism already in the introduction. After recalling the number of migrants that crossed the EU borders due to conflicts in Africa and the threat coming from the terrorist, it connects these two matters by stating that “[t]here is evidence that terrorists have used routes of irregular migration to enter the EU and then moved within the Schengen area undetected” (European Commission, 2016b, p. 2), which indicates that there are terrorists among

²⁶ New proposal of reform was presented in the New Pact on Migration and Asylum (2021). However, it will not be analysed here due to the time frame adopted for this thesis.

immigrants. This document argues that the way to stop terrorists from entering the EU is to again urgently increase the exchange of information.

The *Communication* (2016) suggested several changes to the systems already in use, for instance:

“creation of SIS alerts on irregular migrants subject of return decisions; the use of facial images for biometric identification, in addition to fingerprints in SIS; (...) improving the quality of facial images to enable biometric matching in VIS; (...) reducing the age limit for collecting fingerprints of children between the age of 6 and 12 years old (...)” or “exchange with third countries of information contained in Eurodac” (European Commission, 2016b, pp. 7-9).

What is significant, as the document pointed out, these measures have been already directed at the third-country nationals, which once again indicates that the EU assumes that threat comes from outside. Furthermore, the European Commission proposed new systems such as the Entry-Exit System (EES) to record all ‘short stay’ entries of the third countries nationals for reasons of overstaying, terrorism and serious crimes; the PNR scheme for identification of high-risk travellers to combat terrorism and serious crimes and the EU Travel Information and Authorisation System (ETIAS) which concerns the third countries nationals that do not need VISA to enter the EU territory (European Commission, 2016b). The European Commission pointed out the lack of information about such persons while this data could contribute to the fight against terrorism and serious crime. This lack of information however seems to be a consequence of the logic that countries eligible for visa-free entry should not be considered as countries that pose a threat.

Besides these new systems, the *Communication* (2016) claimed the need for interoperability of the information systems which allows an exchange of data and sharing information from different systems depending on the chosen variant. These new measures as well as expanding of abilities of the systems already in use indicate a strong link established by the EU between migration and terrorism and demonstrate the unchanging EU’s confidence that an increase of exchange of information will provide more security. What is significant, the attention is put on the third countries nationals, even those who are eligible for visa-free entry, while passing over the EU citizens.

In 2016, also *A Global Strategy for the European Union's Foreign And Security Policy: Shared Vision, Common Action: A Stronger Europe* was presented. Interestingly, instead of reassurance about the greatness and strength of the EU, it presented an alarming opinion about its state:

“we live in times of existential crisis, within and beyond the European Union [EU]. Our Union is under threat. Our European project, which has brought unprecedented peace, prosperity and democracy, is being questioned” (European Union External Service, 2016, p. 7).

It was again claimed there that the security of the EU is related to the situation in the neighbouring countries and that addressing the challenges requires combining the internal and external policies. It concerned both migration policy and counter-terrorism, as each of them is very complex and includes cross border aspects. Both of them were also among the areas identified as priorities for the External Action.

The Global Strategy (2016) was quite general in terms of measures and actions, however, one remark was especially interesting. It stated that “We live in a world of predictable unpredictability. We will therefore equip ourselves to respond more rapidly and flexibly to the unknown lying ahead” (European Union External Service, 2016, p. 46). While examples of preventive discourse were visible in the previous documents, this is a preemptive statement that recognises that the world is unpredictable and the threat that the EU faces cannot be foreseen. It is an example of discourse that legitimises the EU's preventive practices and usage of more security measures as the EU has to be prepared for everything. This, however, leads then to a question about proportionality since we cannot predict and calculate the exact threat or the result.

2016 was also a time of the establishment of a new Frontex, the European Border and Coast Guard that replaced the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union. The aim of the new Frontex was not only to better manage migration flows but also to provide security by addressing serious, cross-border crimes. Thus Frontex was entrusted with a long list of tasks that have to be carried out in accordance with the concept of the European Integrated Border Management (IBM). The IBM includes a range of different actions for example the facilitation of legitimate border crossing and prevention of cross-border crimes including migrant smuggling or terrorism, search and rescue (SAR) operations of persons in distress

at sea, internal security risk analysis, cooperation with other agencies and third countries, return operations of migrants, etc. (European Union, 2016a, pp. 14-15). Therefore, Frontex's tasks include among others conducting risk analyses, assessments of the Member States' vulnerability to threats or cooperation with Europol and Eurojust. The novelty is that the European Border and Coast Guard is supposed to contribute to providing security including detection and prevention of terrorism. While in this *Regulation* (2016), this responsibility is clearly expressed, in 2004, it could be only alleged from the cooperation with Europol. Further, Frontex's team members were allowed to carry weapons and ammunition while performing their tasks (European Union, 2016a).

It is important to mention that there is also a quite significant degree of attention put on fundamental rights in regard to Frontex. Apart from the obligation to respect them, the *Regulation* (2016) pointed out that the measures should be proportional, members of the teams may be subject to disciplinary actions and that the financing of actions should be withdrawn if the fundamental rights are violated. Additionally, it claimed a need for a complaint mechanism (European Union, 2016a).

The same day as the new Frontex was established, the European Commission presented the *Communication on Enhancing the security in a world of mobility: improved information exchange in the fight against terrorism and stronger external borders* (2016) which was another document that linked migration and terrorism. It stated that providing security for open Europe has been challenged by the flow of immigrants and terrorism:

“(...) the challenge of maintaining security in open Europe has been put to a huge test in recent years. The pressures of the migration and refugee crisis, alongside a wave of terrorist attacks, have demanded a new approach. The European Agenda on Migration and the European Agenda on Security have shown how deeper cooperation provides an answer not only in terms of crisis response, but also in terms of using shared pools of expertise and knowledge to build a more robust and lasting European system, one equal to the task of providing the strong borders and smart intelligence needed to ensure a secure Europe” (European Commission, 2016a, p. 2).

This quote is an example of the perception that migration and security are inextricably linked which became very explicitly expressed during the ‘Migration Crisis’. At this stage, the EU did not only link migration and security (which includes the counter-terrorism policy) by

strengthening cooperation between agencies such as Frontex and Europol, not only decided to use border control tools to fight terrorism and organised crime but also explicitly advised that these matters should be analysed together to effectively address them.

While the *Communication* (2016) recognised that border controls are not the only tools to provide security, it claimed that they are an important part of doing so, especially in detecting foreign terrorist fighters. Nevertheless, this time the attention regarding the subject of these checks was put also on the EU citizens, as foreign fighters can be EU-nationals. The efficiency of the checks was claimed to depend a lot on the information exchange, which provided another argument for the need to link different database systems (European Commission, 2016a).

According to the *Schengen Borders Code* (2016), the reintroduction of the border controls at the internal borders should be exceptional, used only if other measures will not be effective enough and for a limited time only. Nevertheless, the internal border controls due to the ‘Migration Crisis’ were reinstated in five countries. What is significant, they were prolonged a few times, while the flows of immigrants was decreasing since 2016. Moreover, the *Schengen Borders Code* (2016) indicated that immigration as such, even if in large number, should not be considered as a threat. Therefore it could be assumed that there was an additional factor that supported that decision such as perhaps security threat connected with claims about terrorists among the asylum seekers. Nevertheless, the *Recommendation for prolonging temporary internal border control in exceptional circumstances putting the overall functioning of the Schengen area at risk* (2017), as the reasons for the reinstatement of internal border controls pointed out:

“the serious threat to public policy and internal security in these States by — deficiencies in external border control in Greece and the subsequent secondary movements of irregular migrants entering via Greece and who move to other Schengen States” (Council of the European Union, 2017, p. 73).

This indicates that immigration was then seen as a threat, however, the exact nature of this threat was not explained in this document.

3.4. Conclusions

This chapter has presented the evolution of the three areas in the EU: counter-terrorism, migration and border control policies. As stated in the introduction, it had three aims: first, to present their chronological development; second, to characterise the changes in these policies in three periods; and third, to identify the means of the linking of these analysed policies in the EU.

In the pre-9/11 period, one of the main objectives of European integration was the creation of the single market with the free movement of people. This economic project, as pointed out by Huysmans (2000), produced a spillover effect turning it into an internal security challenge. The removal of controls at the internal borders was associated with an assumption that it can lead to an increase in the security threat, including terrorism, and illegal migration. Although this research focuses on the European Union, it was demonstrated that intergovernmental cooperation was also significant for the direction of European integration and the development of its policies. The European Communities needed this cooperation to be able to advance without yet having the competencies in these areas. Fora such as Trevi Group, the Ad Hoc Group on Immigration or Schengen Group have, as Huysmans (2000, p. 755) claimed, “pre-structured (...) the development of the migration policy in the EU”. This demonstrates that this intergovernmental cooperation is important from the perspective of the link between migration, border control and terrorism, as the European Union did not establish its politics and discourse out of nothing. Moreover, it can not be claimed that it was the creation of the single market which prompted this perception as it can have earlier roots in national politics.

While it is clearly visible that migration was linked to security matters in the pre-9/11 period, its link to terrorism was rather indirect. All the policies were presented as key in strengthening security in the area without controls at the internal borders however counter-terrorism measures did not focus on external borders control. Thus the link between these policies can be visible in, for example, referring to these matters at the same meetings, in the same documents and in the idea to control all persons from regions of high risk of terrorism from the *Declaration of the Belgium Presidency* (1987). This link between migration and asylum on one hand, and internal security issues (crime and terrorism) on the other hand, was also noted by Léonard and Kaunert (2019, p. 61). They, however, refer to it as a

functional linking which according to them, is usually a result of the domestic division of competencies and is not sufficient evidence of securitisation. While the functional link seems adequate for the connection between counter-terrorism, migration and border control policies and would confirm its national origin, this analysis confirms that migration was presented as a security threat (not a terrorist threat) and the subject of securitisation as claimed by other scholars, for example, Huysmans (2000).

After 9/11, the EU certainly became more active in the area of counter-terrorism and its actions were accompanied by a sense of urgency. Nevertheless, as the analysis showed and was also pointed out by Léonard (2010b, 2015), border control became repeatedly referred to as a key tool in countering this threat just after the attack in Madrid (2004). In this context, instruments such as biometrics in EU passports, Visa Information System, SIS II, Eurosur (border surveillance system) as well as Frontex - should be mentioned.

Terrorism, in this period, was presented as an important threat that concerns the European Union, its member states as well as their citizens. It was further linked to the 'open' Europe which attracts terrorists. The EU demonstrated the perception of the terrorist threat that comes from outside of Europe, from poor countries that struggle with many political and economic problems. Similarly, the roots of illegal migration were presented as emanating from third countries, which would require more cooperation with the EU. However, as pointed out by Carrera & Guild (2014, pp. 10-11), this attention on cooperation with third countries on topics connected to terrorism and migration could send the impression that their citizens pose a threat to the EU and are not welcomed. The usage of border control tools and this perception of the origin of the terrorist threat draw a visible link between migration and terrorism even though it was not explicitly stated.

Considering the above, it is important to mention that some scholars do not agree with the existence of the linkage between migration and terrorism. One of the Boswell's (2007, pp. 600-601) arguments is the fact that although there is evidence of securitisation of migration through practice, for example, the transfer of migration control practices into the fight against terrorism, such transfer did not take place from counterterrorism to migration. While the following chapters of this thesis analyse securitisation through discourse and practice, at this point it should be pointed out that one direction of transfer of practices should not simply imply that securitisation did not take place. If the checks at the external borders are used to

verify whether the migrant from the third country poses a threat to a member state, it is not important whether it is a migration control tool or counter-terrorism tool. The crucial point is the purpose. That is, if this tool is used to verify whether a migrant is a terrorist or not, it constructs all migrants as a potential threat. The lack of significance of the direction of the transfer of practices was also claimed by Squire (2015) who, while agreeing with Boswell on the lower than expected impact of 9/11 on the securitisation of migration, argued migration was already successfully securitised prior to 9/11. If so, migrants were already considered as a threat after 9/11 and therefore, were governed as such without a need of further securitisation moves, referred to by Squire (2015) as an 'absent presence' of securitisation.

Finally, the last period of analysis (2011-2018), was a time when migration management, border control and counter-terrorism moved to the top of the EU agenda. While some changes in the EU discourse could be visible, for example, suggestions to refer to 'persons', not 'flows' and 'irregular', not 'illegal' migrants, the EU was still especially focused on combating illegal migration, organised crime and terrorism which was mainly to be achieved by increasing border controls and information exchange. This period was characterised by the perception that third countries are the source of the EU problems in the matter of irregular migration, terrorism and serious crime as well as that combating migrant smuggling networks is fundamental for controlling migration. Moreover, border control and more precisely exchange of information through databases continued to be seen as the key tool to fight terrorism which led to not only expanding access to them, adding new features but also to creating new ones. Finally, prevention has been seen as an integral component of these policies.

Nevertheless, the primary remark regarding this period concerns the connection between the policies analysed that became explicit in both discourse and practices. First of all, the *European Security Agenda* claimed the need of seeing migration in conjunction with security matters (European Commission, 2015a, p. 4). Second, the EU claimed the presence of terrorists among migrants. Third, the above led to the intensification of security practices towards migrants which were perceived as possible security and terrorist threats.

To conclude, in addition to presenting the important developments in the policies analysed, this chapter has indicated changes in three periods marked by significant events such as the

creation of the area of free movement, the 9/11 attack as well as the ‘Arab Spring’ and ‘Migration Crisis’. As suggested by Coolsaet (2010, p. 858), it could be claimed that the EU has an event-driven agenda not only on counter-terrorism but also migration management and border control. However, as the relation between the cause and effect was not the subject of analysis, addressed events could be also seen as ‘windows of opportunity’ for legislative projects that started earlier. In terms of the perception of the connection between analysed policies, it was evolving since the beginning of the time frame of this analysis. While, as pointed out, migration was at first associated with security matters in general, not directly terrorism, it is claimed here that constructing migration as a security threat helped link it to terrorism. This linking then took place through both the discourse adopted by the EU and practices which are subject of more comprehensive analysis in the following chapters.

4. Securitisation through discourse

After outlining the historical developments in counter-terrorism, migration and border control policies and identifying ways in which these areas have been connected in the EU, this chapter focuses on this connection from the perspective of discourse and Chapter 5 on the practice. The analysis in both chapters is underpinned by the securitisation theory as presented in Chapter 2. While in the Copenhagen School's (CS) theory of securitisation and the concept of collective securitisation, the focal point is the 'speech act', or the creation of the discourse that presents a threat posed to a referent object; they differ in certain aspects, for example, in their understanding of urgency and exception²⁷. This thesis draws on the concept of collective securitisation, which adapted the CS' securitisation theory to the EU context. It is assumed here that the subject of analysis is the EU's construction of threat. This means that different types of documents adopted by different EU institutions were the subject of analysis. The EU is understood here as a collective securitising actor whose securitising move occurs in interaction with the audience, that is the Member States. The construction of the threat that emerges from these documents is understood to be the EU discourse. This thesis, however, considers only how the threats have been constructed in the EU and it does not analyse the interaction between the securitising actor and the audience, that is, how the securitising move occurred. Moreover, the analysis is not based on a single speech act as the study includes documents from a long period (1986-2017).

The chapter presents the results of the adapted technique of the discourse analysis and is divided into three sections that respectively focus on the discourse on immigrants, terrorists, and border control. Each of the sections further consists of different strands whose selection was one of the steps (step 4) distinguished in the technique presented in Chapter 2. This chapter presents the key words and phrases (step 2), examples of the linguistic features (step 3), provides some historical context (step 6) and points out the connections between documents and strands (step 5 – intertextuality and interdiscursivity).

²⁷ In the concept collective securitisation presented by Sperling and Webber (2019), either a single event or a series of events disturb the status quo of discourse that lead to a securitising move. However, they do not have to pose an existential threat to the existence of the EU. The result of this move can be both routine and exception, so the emergency measures are not required for securitisation to occur as in the Copenhagen School's concept.

4.1. Discourse on immigrants

The first section of the chapter focuses on the presentation of the EU discourse on migration. Through the application of the technique of the Discourse-Historical Approach (DHA), three strands on the discourse on migration were distinguished: ‘Immigration as a humanitarian problem’, ‘Immigration as a matter of security’, ‘Immigration as both a problem and benefit to the EU’.

4.1.1. ‘Immigration as a humanitarian problem’

One of the most visible strands in the EU discourse on migration constructs it as a humanitarian problem. This construction of migration can be observed across all analysed periods and has also been pointed out by several scholars (Léonard, 2007; Gammeltoft-Hansen, 2008; Hernández-Carretero, 2009; cited in Léonard and Kaunert, 2019, p. 27). The presentation of migration as a humanitarian problem is built on two elements: the EU’s responsibility for providing international protection and helping third countries; and the presentation of immigrants as victims. This section respectively presents these elements while pointing out the key words, phrases and linguistic features identified in the analysis.

The EU has recognised the need for solidarity and its responsibility in the context of migration several times in the analysed documents. For example, in the *Hague Programme* (2005), the EU acknowledged:

“the need for the EU to contribute in a spirit of shared responsibility to a more accessible, equitable and effective international protection system in partnership with third countries, and to provide access to protection and durable solutions at the earliest possible stage” (European Union, 2005, p. 5).

Similarly, in the *European Agenda on Migration* (2015), it was stated that “[i]n addition to the relocation of those already on EU soil, the EU has a duty to contribute its share in helping displaced persons in clear need of international protection” (European Commission, 2015b, p. 4). Further, phrases such as “[t]he immediate imperative is the duty to protect those in need” (European Commission, 2015b, p. 2) and “Europe cannot stand by whilst lives are being lost” (European Commission, 2015b, p. 3) were used. The Agenda also argued that:

“[m]any of the root causes of migration lie deep in global issues which the EU has been trying to address for many years. Migration should be recognised as one of the primary areas where an active and engaged EU external policy is of direct importance to EU citizens. Civil war, persecution, poverty, and climate change all feed directly and immediately into migration, so the prevention and mitigation of these threats is of primary importance for the migration debate” (European Commission, 2015b, p. 7).

In these quotes, one can note words such as ‘need to (...) contribute’, ‘duty’, ‘cannot stand by’, ‘direct importance’, ‘primary importance’. They very clearly indicate the EU’s concern and attention directed at providing international protection and help to third countries. The EU is presented in these documents adopted at times of increase of flow of migrants (in 2005 the flow was especially directed at the Canary Islands (Spain) and 2015 was the start of the ‘Migration Crisis’) as a long provider of help, as a defender of migrants and as very aware of its responsibility and role it can play in this area. It does not mean that the EU was silent on its responsibility besides the ‘critical’ moments but indeed these periods were marked by its increased attention.

A very important aspect of the recognition of the EU’s role in this area is its attention to third countries and cooperation with them. Already in the *Conclusions from Tampere* (1999), it can be read that the EU “needs a comprehensive approach to migration addressing political, human rights and development issues in countries and regions of origin and transit” (European Council, 1999, p. 3). Later, in the *Hague Programme* (2005) the EU claimed that “[p]olicies which link migration, development cooperation and humanitarian assistance should be coherent and be developed in partnership and dialogue with countries and regions of origin” (European Union, 2005, p. 5). Similarly, the cooperation with third countries was key for the *Strategy for the External Dimension of JHA* (2005) where a strong modality ‘must’ was used to situate the cooperation with third countries as both short- and long-term action. In the same document, it was stated that “EU action is most effective where it is based on a partnership with third countries to tackle common problems and meet shared policy objectives” (Council of the European Union, 2005a, p. 5) and that:

“[t]he EU should use its significant relationship with third countries as an incentive for them to adopt and implement relevant international standards and obligations on JHA issues. Countries should be aware that the nature of their

relationship with the EU will be positively affected by their level of co-operation, given the central importance of these issues for the EU and its Member States” (Council of the European Union, 2005a, p. 5).

Also in the *Global Approach to Migration and Mobility* (2011), the EU repeated the need for partnerships with non-EU countries that would be “mutually beneficial” (European Commission, 2011a, p.2). However, while the EU seems to be very involved in tackling migration with the third countries as active parts of the actions, one cannot but notice the prevailing assumption that both the EU and third countries share the same goals and that the third countries are interested in cooperating with the EU.

This cooperation with third countries also has different facets. One part of it indeed relies on offering humanitarian assistance. In *the Global Strategy for the European Union’s Foreign and Security Policy* (2016), it can be read that the EU will increase the level of this help focusing especially on education, women, and children. This attention directed to women and children (sometimes elderly people as well) is very common as they are identified in the EU documents as the most vulnerable. Women and children are thus presented as those who deserve help, contrary to men who were not included in this group. This structural opposition is significant from the perspective of feminist studies, as it can be linked to the victimisation of women and denial of recognition of the possible vulnerability of men (see Carpenter, 2005; Welfens, 2020).

Nevertheless, this cooperation and support given by the EU to third countries are not limited only to humanitarian help, economic development and promotion of human rights as a crucial aspect entails “strengthen[ing] border controls in the third countries, improv[ing] travel document security and combat[ing] people smuggling and trafficking” (Council of the European Union, 2005a, p. 3). This type of cooperation with the third countries is significantly prevailing in the documents analysed due to the assumption that:

“[t]he answer to many of the challenges in the area of freedom, security and justice lies in relations with third countries, which calls for improving the link between the EU’s internal and external policies” (European Council, 2014, p. 1).

Thus, while the EU recognises some of the third countries as in need of help, at the same time, it focuses on sealing its borders so the ‘problems’ from these places do not put the EU in danger. It indicates a blurred line between the perception of migration as a humanitarian

problem and threat which is analysed in the following section. Moreover, as raised by Bialasiewicz, transferring more responsibilities for ‘irregular’ migrants to third countries puts them “in the hands of former dictatorships with dismal human rights records” (cited in Vaughan-Williams, 2015, ch. p. 15).

The second important element of this strand on migration as a humanitarian problem is the discourse on illegal and irregular immigration, which are constructed as both a ‘threat’ and victims. While the former is addressed in the next section, there are two ways in which the EU recognises these immigrants as in need of help. First, while illegal immigration is presented as a serious crime and issue for the EU, the way to tackle it is found in helping third countries. In the *Conclusions from Seville* (2002), it was claimed with a strong modality ‘must’ that to address the root causes of illegal immigration, the EU’s long-term objective has to be the promotion of economic prosperity in the countries of origin (European Council, 2002). A similar declaration can be found in the strategic guidelines from 2014, where it is described as ‘essential’ (European Council, 2014). Therefore, illegal or irregular migrants can be in need of help due to the poor condition of lives in the countries they come from but also, they maybe be victims of smugglers and their criminal networks. The analysed EU documents presented the fight with smugglers as crucial. Such declaration can be found already in 1999 in the *Tampere Conclusions* (1999) where it can be read that the EU is ‘determined’ to tackle illegal immigration at its source by combating human traffickers. Similar claims were made, for example, in the *Hague Programme* (2005) and *Strategy for the External Dimension of JHA* (2005), however, more attention on this problem was put during the ‘Arab Spring’ and the ‘Migration Crisis’. For instance, in the *European Agenda on Security* (2015), it was claimed that:

“[o]ne of the major problems the EU is currently facing is that criminal networks exploit individuals' need for protection or their desire to come to Europe. The more that such criminal smuggling can be stopped early, the less the risk of human tragedies as seen recently in the Mediterranean. Preventive action against the facilitation of irregular migration requires better information gathering, sharing and analysis. The key lies in cooperation against the smuggling of migrants inside the EU and with third countries.” (European Commission, 2015a, p. 16)

In the *European Agenda on Migration* (2015), it was then argued that “[t]he criminal networks which exploit vulnerable migrants must be targeted” (European Commission, 2015b, p. 3) and that the EU wants to “halt the human misery” (European Commission, 2015b, p. 2). Similarly, the *Communication on Enhancing Security in a World of Mobility* (2016), claimed that organised crime groups “are quick to exploit new opportunities, even at the risk of human tragedy” (European Commission, 2016a, p. 11). In these quotes, it can be observed that the EU presents the fight with smugglers as a way to protect the immigrants who are their victims. It blames smugglers for the deaths at sea. This protection of migrants is presented as a high priority due to the usage of high modalities such as ‘must’. The EU therefore, through, for example, preventive actions, which were mentioned in the *European Agenda on Security* (2015), and also thanks to the establishment of the European Migrant Smuggling Centre by Europol (European Commission, 2016a), wanted to defend migrants. Vaughan-Williams (2015, ch. 1, p. 3) point out that ‘irregular’ migrants have been thus “caught between the discourse of securitisation and humanitarianism” in the EU for several decades. Nevertheless, the time of ‘Arab Spring’ and ‘Migration Crisis’ was a period of intensification of the connection between migration and security. Vaughan-Williams (2015, ch. 2, p. 4) interprets these two discourses as “twinned elements of what Michael Foucault outlined as biopolitical forms of governmentality” instead of seeing them as a contradiction. Moreover, the ‘irregular’ migrant is there both the ‘cause’ of the strengthening of the borders and the ‘effect’ of these actions (Vaughan-Williams, 2015, ch. 2, p. 8). Feminist studies further see this discourse on help to ‘vulnerable’ migrants that are ‘exploited’ by the smugglers as a feminisation of migrants, and taking away their agency (Stachowitsch and Sachseder, 2019).

While the EU presents this fight against smugglers as help to those in need, quite a different discourse on this matter can be seen in the reports from the non-governmental organisations (NGO’s). Amnesty International (2020) and Caritas Europa (2019) talk in this context about ‘criminalisation of solidarity towards migrants’ as they claimed to be portrayed as colluding with human smuggling and trafficking, even prosecuted and harassed for providing essential service and support to migrants such as search and rescue (SAR) operations at sea or offering shelters. Caritas Europa (2019, p. 1) claimed that:

“the fight against human smuggling and trafficking is used as a migration management tool for stricter migration regimes, the protection of the victims often being only a secondary concern”.

Moreover, Amnesty International (2020, p. 9) called for the decriminalisation of irregular entry and recognition that “irregular entry may be the only option for many to seek protection and that people using the services of smugglers should not be punished”. This approach to the fight against smugglers can suggest that the EU is only portraying migrants as victims of smugglers in order to introduce more measures to decrease the number of immigrants reaching EU soil.

Another element of portraying irregular migrants as victims are the deaths at sea. Attention on them was significantly more visible, for example, between 2003 and 2006 when thousands of migrants died while trying to reach the Canary Islands. In the *Hague Programme* (2005), the EU recognised that “insufficiently managed migration flows can result in humanitarian disasters” and expressed “its utmost concern about the human tragedies that take place in the Mediterranean as a result of attempts to enter the EU illegally” (European Union, 2005, p. 5). The *Strategy for the External Dimension of JHA* (2005) named the deaths the “tragic face of irregular migration into the EU” (Council of the European Union, 2005a, p. 3). This problem was also raised during the ‘Migration Crisis’ when the EU stated that the crisis ‘put the spotlight on the particular need to manage the irregular arrivals’ (European Commission, 2016a, p. 3). It can be somehow surprising in the context of the earlier events which should have already suggested such a need.

The importance of the fight with smugglers and preventing deaths has been already called to be a key priority in the *Stockholm Programme* (2009) and in 2013 was adopted a new tool which, as it was claimed, was to help in reducing the loss of lives – the European Surveillance System (Eurosur). As Pugliese (2013) points out, there are some significant differences in the framing of the goals of Eurosur in its proposal and adopted regulation. Whereas in the preamble to the *Proposal for the Regulation on Eurosur*, it was stated that the system will:

“improve (...) situational awareness and reaction capability when detecting and preventing irregular migration and cross-border crime **as well as protecting and saving** [emphasis added] lives of migrants at the external borders of the Member States of the Union” (European Commission, 2011b, p. 5),

in the art. 1 of the actual Regulation 1052/2013, its aim was phrased as follows:

“to improve situational awareness and to increase reaction capability at the external borders of the Member States of the Union (‘external borders’) for the purpose of detecting, preventing and combating illegal immigration and cross-border crime and **contributing to ensuring the protection and saving** [emphasis added] the lives of migrants” (European Union, 2013b, p. 14).

In the proposal, this presentation of Eurosur’s goals was placed in the preamble only and in its art. 1 and 2, which specify the subject matter and scope, there is no reference to it. In the adopted regulation, saving lives was pointed out in all of these places, however, with different wording. This changed framing of Eurosur’s aims suggests that saving the lives of migrants is not its goal per se, rather should be a result of actions that aim at preventing illegal immigration and cross-border crime. It was also claimed by Rijpma and Vermeulen (2015) based on the *Proposal for a regulation of the European Parliament and of the Council establishing the European Border Surveillance System (EUROSUR) – Note to Coreper/Mixed Committee, 15085/12*. Moreover, Rijpma and Vermeulen (2015, p. 462) also point out the *Communication on the EU Internal Security Strategy in Action* as proof of the secondary importance of saving lives for the Eurosur, as the document stated that it will “contribute to internal security and the fight against crime”. Thus while the EU claims that “Europe cannot stand by whilst lives are being lost” (European Commission, 2015b, p. 3) and through this narration legitimates the use of certain measures, scholars and NGO’s often provide a contradictory understanding of its actions where the intention to save the lives seems to be rather an attempt to better secure the EU borders than to actually help.

A final point in this subsection refers to the way the EU was referring to migration. In the *Global Approach to Migration and Mobility* (2011), the European Commission itself recognised flaws in this matter:

“The GAMM should also be migrant-centred. In essence, migration governance is not about ‘flows’, ‘stocks’ and ‘routes’, it is about people. (...) Migrants should, therefore, be empowered by gaining access to all the information they need about their opportunities, rights and obligations” (European Commission, 2011a, p. 6).

Concern over this practice applied not only by the EU but also the mainstream approaches in political science, was pointed out by Guild (cited in Vaughan-Williams, 2015, ch. 2, p. 24), who claims that “this obscures the diverse experiences and perceptions of individual

migrants and allows for their ‘manipulation’ in ways that lead to human rights abuses”. While, indeed, this approach hides the human faces of migrants in statistical data and risk analyses that can lead to less humanitarian actions, no significant change in the language used by the EU in its document could be noticed after presenting this document. Moreover, the ‘Migration Crisis’ strengthened the focus on numbers and routes.

4.1.2. ‘Immigration as a matter of security’

Another major strand that prevails throughout all analysed periods presents migration as a security matter. As indicated in Chapter 3, migration was linked to security since the preparation for the abolishment of the controls at internal borders. After 9/11 this connection was very clear but not explicitly stated. It changed during the ‘Migration Crisis’ when such argument was made directly and migration was linked to terrorism. This section presents this construction of migration as a security matter connected to threats such as cross-border crime and terrorism.

The first examples of the construction of ‘immigration as a security matter’ can be seen already in the *Declaration of the Belgium Presidency* (1987), the *Palma Document* (1989) and the *Schengen Convention* (1990). All of them are documents of intergovernmental cooperation focused on measures that are necessary to achieve the free movement of people. While all of them present necessary measures (security practices are addressed in the next chapter), they also reflect the crucial assumption that the abolishment of the checks at internal borders requires stronger controls on the external borders due to the threat of migration, organised crime, and terrorism. For example, in the first document, the *Declaration of the Belgium Presidency*, it can be read that:

“there will be good reason to plan a strengthening of controls [at port and airports borders] (...). Taking into account the necessity to improve the comfort of Community travellers, it will be necessary to study the means which will mean that it is avoided that these travellers suffer from the strengthening of controls. In this respect, a check of travellers according to their status as a national of a Member State of the Community or not, should be organised without however restricting the efficiency of controls

from the point of view of the fight against illegal immigration from third countries, terrorism, drugs and crime” (Bunyan, 1997, p. 10).

This quote not only supports the above-mentioned assumption, as it is said that there would be ‘a good reason’ to strengthen the border controls but also introduces a structural opposition between ‘Community travellers’ and ‘third-country nationals’ where the former should not suffer from this strengthening of controls. The latter, however, poses more threats connected to illegal immigration, terrorism, drugs and crime. Similarly, in the *Palma Document* (1989), the need for stronger controls at the external borders was also articulated with a strong modality ‘must’ stressing the need for their high effectiveness which suggests that what comes from outside is particularly dangerous.

Finally, the *Schengen Convention* used various words in the context of migration that suggest that migration is a threat: ‘alert’, ‘detection’, ‘exchange of information’, ‘prevention’, ‘security’, ‘surveillance’, ‘threat’, ‘through check’. According to this document ‘aliens’ ‘may be’ allowed to enter the area if they fulfil several conditions, among others, they cannot be considered as “a threat to the public policy, national security or international relations” (European Communities, 1990b, p. 2). While checks should be carried on all ‘persons’, ‘aliens’ should be “subject to a thorough check” to “detect and prevent threats to the national security and public policy” (European Communities, 1990b, p. 21). These few statements can provide many insights about the approach to immigrants. First, the usage of terms: ‘alien’ and ‘person’ for a third-country national and a national of a Member State of the European Communities respectively, presents structural opposition. The term ‘alien’ has a rather pejorative meaning even though using it is not uncommon: the same term appears, for example, in Polish legislation on foreigners. Nevertheless, this term suggests that a person coming from outside Europe is something unknown and strange. In the later documents, the EU started to refer to ‘third-country nationals’, a more neutral term. In terms of the modality, where the document refers to allowing entrance to the aliens, a low modality such as ‘shall be’ and ‘may be’ is used, while when referring to checks on aliens, it uses the word ‘always’, a high modality which further stresses the possible threat coming from immigrants from outside the EC. Also, although the *Schengen Agreement* and the *Schengen Convention* were not part of the EC’ legal framework at first, only third-country nationals and not nationals from non-signatory states were “subject to thorough checks”, as the later incorporation of the Schengen acquis into the EU legal framework was already assumed.

In the period post-9/11, the area of free movement continued to be a key reason for strengthening border controls and the attack in Madrid (2004) led it to become an important tool for counter-terrorism policy. Thus migration continued to be connected to security matters but also started to be more explicitly linked to terrorism. Various key words from documents from this period can suggest that migration was considered a matter of security even though it was not explicitly stated: ‘control of migration flow’, ‘border security’, ‘risk analysis’, ‘high level of control and surveillance’. Two documents that should be mentioned here are the *Prüm Convention* (2005) and the *Hague Programme* (2005). The first one is based on the assumption that stepping up cross-border cooperation, particularly in combating terrorism, cross-border crime and illegal migration, is so crucial that requires doing it through intergovernmental cooperation without waiting for this to occur on the EU level. It thus placed illegal immigration next to terrorism and other crimes and presents it as a very severe problem. Respectively, the *Hague Programme* (2005) claimed that management requires security measures that are also important for the purpose of fighting terrorism. A strong modality was used there to stress the importance of border control tools such as biometric identifiers and data in order to manage these two matters.

An even clearer connection between migration and security can be observed in the documents that have been adopted during the ‘Arab Spring’ and ‘Migration Crisis’. A very explicit statement can be found already in the *Global Approach to Migration and Mobility* (2011), where it is argued that:

“[m]igration and mobility are embedded in the broader political, economic, social and security context. A broad understanding of security means that irregular migration also needs to be considered in connection with organised crime and lack of rule of law and justice, feeding on corruption and inadequate regulation” (European Commission, 2011a, p. 15).

First, it directly presents migration as a security matter but also, it links it to organised crime. This statement additionally contributes to the construction of the third countries as places of problems with corruption, lack of rule of law and organised crime. Confirmation of the connection with the last can also be seen in the claimed need for closer cooperation between EU agencies such as Frontex and Europol, to better exchange information on migration and organised crime. Further, very important documents for this strand are the *European Agenda*

on Security (2015) and the *European Agenda on Migration* (2015) where it is directly claimed that the former:

“has to be seen in conjunction with the forthcoming European Agenda on Migration, which will address issues directly relevant to security, such as smuggling of migrants, trafficking in human beings, social cohesion and border management” (European Commission, 2015a, p. 4).

The EU explicitly constructed migration as a security matter and used a strong modality for it (‘has to’). The *Communication on Enhancing security in a world of mobility* (2016), confirmed the usefulness of the cooperation, that came from these documents, to build a system that will ensure the security of Europe (European Commission, 2016a). Other affirmation of this understanding of migration can be seen for example in the statements such as “Europeans must improve the monitoring and control of flows which have security implications” (European Union External Service, 2016, p. 45) and:

“EU citizens expect external border controls on persons to be effective, to allow effective management of migration and to contribute to internal security. The terrorist attacks in Paris in 2015 and in Brussels in March 2016 bitterly demonstrated the ongoing threat to Europe's internal security” (European Commission, 2016b, p.2).

The first quote again uses a high modality and claims migration to be a security matter, and the second not only repeats this but also suggests that terrorists are among migrants and only effective controls can counter this threat, thus connecting migration and terrorism. This quote clearly indicates that terrorist attacks are connected with the management of migration and constructs asylum seekers as a possible threat even though they are not the ones who usually commit attacks (see Funk and Parkes, 2016).

In the analysed documents, the EU only once explicitly states that migration per se should not be treated as a threat, even if a larger number of migrants is crossing the border (European Union, 2016b). Nevertheless, the ‘Migration Crisis’ presented a rather different understanding of migration. This was confirmed in the document from 2017, which recommended prolonging of the controls at internal borders of some EU countries due to the threat the immigrants posed to the Schengen area (European Union, 2017).

An important role in this construction of ‘migration as a security matter’ is played by illegal and irregular immigration which has been seen as an increasingly serious problem in Europe since the mid-1980s. Already the *Declaration of the Belgium Presidency* (1987) claimed that the controls for illegal immigrants need to be strengthened and the procedures for sending them back, effectively implemented. Similarly to illegal immigration refer, for example, the *Treaty of Maastricht* (1992), *Recommendation on harmonizing means of combating illegal immigration* (1995) or *Conclusions from Tampere* (1999). In the last one, the control of illegal immigration is one of the conditions to allow immigrants to enjoy the free movement of people. Also, after 9/11 the combating of illegal immigration is addressed in many documents such as the *Conclusions from Seville* (2002), *Prüm Convention* (2005) or *Stockholm Programme* (2009). In the last document, it can be read that the ‘effective’ combating illegal immigration is ‘essential’ for developing common immigration policy and ‘necessary’ for “credible and sustainable immigration and asylum systems” (European Union, 2010, p. 5).

What these documents have in common is the insistence on combatting illegal immigration while referring to providing security, combating cross-border crime and even terrorism. All of them used the term ‘illegal’, to refer to an immigrant that is not untheorised to enter the EU territory, and the verb ‘to combat’, to signal the action it requires. The same term ‘to combat’ is used in the EU documents in the context of terrorism and cross-border crime. The term itself has a pejorative, military meaning suggesting a fight or war. Applying it to both, migration and terrorism, suggests that the former is also a threat to security. Also, usage of the word ‘illegal’, which regularly appears in the above-mentioned documents, has significant implications. The Council of Europe Parliamentary Assembly already in 2006 claimed that the term ‘irregular migrant’ is more appropriate than ‘illegal migrant’ as it is more neutral and does not stigmatise immigrants (Guild, 2010). Nevertheless, as pointed out by Guild (2010) and could be seen above, the EU, contrary to this recommendation, continued referring to those unauthorised migrants as to ‘illegal’ for a longer time. Guild (2010, p. 5) further explains that this language choice matters as to the image it projects to the society:

“[b]eing an immigrant becomes associated, through the use of language, with illegal acts under the criminal law. All immigrants become tainted by suspicion. Illegal immigration as a concept has the effect of rendering suspicious in the eyes of the population (including public officials) the movement of persons across

international borders. The suspicion is linked to criminal law – the measure of legality as opposed to illegality”.

The term ‘illegal’ appears in the documents analysed until 2011 when in the *Global Approach to Migration and Mobility* (2011) it was replaced with ‘irregular migrant’. Nevertheless, this document also claimed that:

“[a] broad understanding of security means that irregular migration also needs to be considered in connection with organised crime and lack of rule of law and justice, feeding on corruption and inadequate regulation” (European Commission, 2011a, p. 15).

Therefore while changing the term, the EU continued presenting the same construction of migration. Significantly, in the *Regulation on Eurosur* from 2013, the term ‘illegal migration’ was used again.

4.1.3. ‘Immigration as both a problem and a benefit to the EU’

Another striking element in the EU discourse on migration is its prevailing reference to migration as a ‘problem’ and contrasting occasional indications of its possible positive impact. Although the second construction does not contribute to the connection between migration and security, the opposite narration also has to be acknowledged. Moreover, this construction is based on the structural opposition between ‘good’ and ‘bad’ immigrants and the latter is in the EU discourse often connected with crime and terrorism.

While identifying the key words for the discourse on migration one cannot but notice the repetitiveness of words such as ‘problem’, ‘issue’, ‘challenge’. Whether ‘challenge’ can mean an opportunity for something positive, ‘problem’ and ‘issue’ have a more negative connotation – they may suggest that something is wrong. Certainly, treating migration as a problem is nothing new: as noted in the previous chapter, it was clearly presented as a problem for the labour market, social help systems and culture by the Member States before the EU has gained competencies in this matter. The understanding of illegal migration as a problem can already be observed in 1997 in the *Declaration of the Belgium Presidency*. The same word was used also in the *Conclusion and Action Plan* from 2001, however, in the context of refugees. One year later, the *Conclusions from Seville* stated that both asylum and

immigration are “closely related issues” (European Council, 2002, p. 7). In the *Hague Programme* (2005), illegal migration was named a ‘problem’ just next to trafficking, smuggling, terrorism, and organised crime. In the *Strategy for the External Dimension of JHA* (2005), migration was argued to “present particular challenges” (Council of the European Union, 2005a, p. 3), which understanding requires recalling the increase in the migration flow to the Canary Islands. During the ‘Migration Crisis’, some documents, for example, the *European Agenda on Migration* (2015), also referred to challenges brought by migration, however at that time the migration flow was not anymore considered just as a ‘problem’, it was a situation of ‘crisis’.

Another, yet not explicit, example of this construction of migration as a problem is the signing of the *Dublin Convention* and the later changes to it in *Dublin II* and *III*. These documents present the assumption that the Member States consider asylum seekers as a challenge (at least) therefore rules that will identify the responsible state, are necessary. An important demonstration of this was also a failed intent to establish a solidarity mechanism and change the rules on determining the Member State responsible for examining the asylum application at the time of the “Migration Crisis”. Even though both the Southern Member States, which often did not enforce the *Dublin Regulation*, and the North Member States, which were the top recipient countries, supported the solidarity mechanism, it was blocked by the Visegrad countries which feared an increase in the number of asylum seekers in their countries.

Apart from narratives that present migration as a security matter, humanitarian issue, or simply something problematic, the EU from time to time also has referred to its potentially positive impact. The first reference to possible benefits from immigration in the analysed documents can be noticed in the *Strategy for the External Dimension of JHA* (2005) where the EU claims that:

“[w]hen managed effectively migration can have a substantial positive impact both for host and source countries and for migrants, and in this context the EU’s work on economic migration is relevant” (Council of the European Union, 2005a, p. 3).

In this case, a low modality ‘can’ was used and although this positive impact is noted, in the very next sentence the EU referred to the problem of illegal immigration which tackling is

‘essential’ (Council of the European Union, 2005a). Very similarly, in the *Stockholm Programme* (2009), both challenges and benefits were acknowledged: it was claimed that “[w]ell-managed migration can be beneficial to all stakeholders” (European Union, 2010, p. 5) and that the EU “must continue to facilitate legal access” while countering “illegal immigration and cross-border crime and maintaining a high level of security” (European Union, 2010, p. 26). Later in the document, it was stated that:

“[t]he European Council equally recognises that, in the context of the important demographic challenges that will face the Union in the future with an increased demand for labour, flexible migration policies will make an important contribution to the Union’s economic development and performance in the longer term” (European Union, 2010, p. 27).

Therefore the EU clearly demonstrated that its interest in migration comes from its internal motives – demography as well as later stated possible increase of “competitiveness and economic vitality” (European Union, 2010, p. 29). Moreover, it is interested only in a specific type of migrants that matches the labour market needs.

This narration remained unchanged in the *Global Approach to Migration and Mobility* (2011) and the strategic guidelines from 2014²⁸. In the former, more attention was put on explaining the reasons why the EU needs immigration (labour shortages, ageing of the population, need for specific skills) and also the benefits for the source countries – migration as mutually beneficial. Nevertheless, it was claimed that:

“[w]ithout well-functioning border controls, lower levels of irregular migration and an effective return policy, it will not be possible for the EU to offer more opportunities for legal migration and mobility” (European Commission, 2011a, p. 5).

The *European Agenda on Migration* (2015) is the last document that refers directly to the benefits of migration. It repeats previous arguments, claiming that “[m]igration will increasingly be an important way to enhance the sustainability of our welfare system and to ensure sustainable growth of the EU economy” (European Commission, 2015b, p 14). In the same document, the Commission (2015b, p. 21) also argued that:

²⁸ European Council, 2014, *26/27 June 2014 Conclusions*, EUCO 79/14.

“Europe should continue to be a safe haven for those fleeing persecution as well as an attractive destination for the talent and entrepreneurship of students, researchers and workers”.

It can be seen here that the EU is considered to be a ‘safe haven’ for asylum seekers and refugees, while for the labour force only ‘an attractive destination’. Further, this place is only accessible for certain groups apart from the EU citizens. This quote presents the structural opposition between different types of migrants and also, between migrants and EU citizens. This time, however, it is also suggested that the labour force is more demanding than refugees and asylum seekers.

Thus, the EU has intended to change the negative discourse on migration and present it as beneficial, however only in a very limited number of documents. Due to the usage of high modalities, it is visible that migration is important for the EU. However, the explanation that the EU has given presents migration merely as a tool to support the economy and labour market, not as individuals that enrich culture and society.

4.2. Discourse on terrorists

As presented in the Introduction, the EU discourse on terrorism has already been analysed elsewhere (Baker-Beall, 2016). To avoid repeating this research but still allow an analysis of the connection between terrorism, migration and border control in the EU discourse, this section analyses only two relevant strands. These distinct strands respectively refer to the construction of terrorism as ‘an external threat’ and ‘a major security threat’.

4.2.1. ‘Terrorism as an external threat’

This section presents the construction of terrorism as an external threat. It respectively shows how the EU claimed that terrorism is a threat which comes from the outside, some examples of occasional acknowledgements that Europe may be also a base of terrorism, intends to do not stigmatise any group with connection to terrorism as well as similarities in the descriptions of the countries of origin of terrorism and migration. Although before 9/11 terrorism in Europe was predominantly considered a national problem connected to the

activity of groups such as IRA or ETA, some attacks at the time were already conducted by Islamist terrorists (for example the El Descanso bombing in 1985). While controls at external borders were not yet key for the fight against terrorism, cooperation in counter-terrorism matters was presented as crucial in face of the abolishment of the controls at internal borders.

Some examples of the perception of terrorism as an external threat can be found in pre-9/11 period, for example, in the *Declaration of the Belgium Presidency* (1987), where it can be read that:

„(...) the Ministers finalised the practical methods for carrying out the Bonn agreement of 8 November 1984, in Rome on 21 June 1985, on the exchange of information by Member States of TREVI on undesirable foreigners from third countries. This concerns foreigners who present a terrorist threat. (...) The working group I will continue to study the means for improving the control of persons and goods from regions where there is a high risk of terrorism” (Bunyan, 1997, p. 11).

This statement indicates that there are third-country nationals that are ‘undesirable’ and pose a terrorist threat, therefore, control of people coming from certain regions must be strengthened. Moreover, this control was to be extended and address not only those who actually pose a threat but anybody from regions of risk. It thus demonstrates the strengthening of the attention on the third countries as the main source of threat as well as of the preventive attitude in countering it. Later, also the *Palma Document* (1989) referred to the “[i]ntensification of the exchange of information about the removal of citizens of third countries which represent a possible terrorist danger to security” (Bunyan, 1997, p. 15).

After 9/11, the EU started to be more active in the field of counter-terrorism. Already in the *Conclusions and Action Plan* (2001), so in the response to the attack at the World Trade Centre and Pentagon, the EU claimed that:

“[t]he fight against the scourge of terrorism will be all the more effective if it is based on an in-depth political dialogue with those countries and regions of the world in which terrorism comes into being” (European Council, 2001, p. 3).

First, the word ‘scourge’ suggests a phenomenon that is dangerous and quickly growing in scale. Further, it is the phenomenon that comes from certain countries and regions of the

world, not the EU. This perception was reinforced after the Madrid bombing (2004) when the EU declared assistance to ‘vulnerable’ countries in enhancing their counter-terrorism capability, placed counter-terrorism at the core of the political dialogue with third countries and announced that it will evaluate their commitment to fight terrorism which “will be an influencing factor in EU relations with Them” (European Council, 2004, p. 12). The enhancement of third countries’ capabilities to fight terrorism was also named one of the objectives of the revised *EU Plan of Action on Combating Terrorism* (2004). These statements generate few observations. First, the EU in these documents almost completely omits a possible terrorist threat from inside the EU and directs all attention at the third countries. Second, terrorism is constructed not only as coming from the third countries, but also as the third countries’ problem. The EU claimed that it will help them to enhance their capability because they are ‘vulnerable’, have problems with the rule of law etc. Their lack of an adequate response to terrorism creates a threat to the EU, therefore enhancement of their capabilities is of great importance. This perception of terrorism being an external threat led also, as already pointed out, to adopting border control tools for countering it.

In the *Counter-Terrorism Strategy* (2005), the EU explicitly argued that the threat it was facing was coming from outside. First, it was stated that:

“[g]iven that the current international terrorist threat affects and has roots in many parts of the world beyond the EU, co-operation with and the provision of assistance to priority third countries - including in North Africa, the Middle East and South East Asia - will be vital” (Council of the European Union, 2005c, p. 7).

Further, it was said that it is Al-Qaeda and the groups inspired by it that pose the main threat to the EU. Additionally, in this document, the EU argued that terrorism is not really something that could be a problem among the EU citizens as:

“[t]he vast majority of Europeans, irrespective of belief, do not accept extremist ideologies. Even amongst the small number that do, only a few turn to terrorism” (Council of the European Union, 2005c, p. 7).

This claim does not only express once more that terrorism comes from third countries and not the EU, but it is also an example of structural opposition between ‘good’ Europeans that condemn terrorism, and third-country nationals from certain regions which support it and are involved in it. This discourse on third countries was continued in the *Strategy for the*

External Dimension of JHA (2005) where the cooperation with third countries for counter-terrorism purposes was described as a ‘cross-cutting feature’ (Council of the European Union, 2005a, p. 2), in the *Stockholm Programme* (2009), where the EU declared support to the third countries in strengthening their controls at the external borders for the same purpose and claimed that “[a]ddressing threats, even far away from our continent, is essential to protecting Europe and its citizens” (European Union, 2010, p. 114), as well as in the *Internal Security Strategy* (2010) where EU used a high modality to stress the need for attention to be put on ‘weak and failed states’ to prevent them from becoming ‘hubs of organized crime and terrorism’ (Council of the European Union, 2010, p. 30). The outside was continued to be seen as a source of terrorist threat also during the ‘Migration Crisis’ as in the *European Agenda in Security* (2015) it was claimed that:

“[m]any of today's security concerns originate from instability in the EU's immediate neighbourhood and changing forms of radicalisation, violence and terrorism. Threats are becoming more varied and more international, as well as increasingly cross-border and cross-sectorial in nature” (European Commission, 2015a, p. 2).

This perception of the terrorist threat coming from the third countries, as presented above, was rather stable across all analysed periods. Nevertheless, there could be some ‘breaches’ observed in this construction. Namely, the EU has occasionally admitted that the terrorists can live in the EU, for instance by stating that “Europe is both target and base for [...] terrorism” (Council of the European Union, 2003, p. 3). This acknowledgement was significantly more prominent during the ‘Arab Spring’ and the ‘Migration Crisis’. However, it is claimed here that these ‘breaches’ in the strand also contribute to the construction of the threat as originating from outside the EU. First, in 2012, the Council presented the document *Preventing Lone Actor Terrorism* where two terrorist attacks were addressed: the attack committed by Anders Breivik in Norway (22.07.2011) and Mohammed Merah in France (March 2012). Both were committed by persons living in Europe. As pointed out in the previous chapter, even though this document refers to both attacks while addressing the threat coming from ‘lone wolves’, more focus is put on Islamic terrorism and the reasons behind Breivik’s attack were omitted. In the document, it is stated that:

“[i]ndeed in recent years we have seen a greater concentration by Al Qaeda on encouraging lone actors, and providing them with encouragement and inspiration” (Council of the European Union, 2012, p. 1).

Therefore, this document again put the attention on Islamist terrorism and the third countries, even though terrorists were based in Europe. Further confirmation of this assumption can be found later in the document where it is argued that:

“Given that some lone actor terrorists have travelled abroad (AF/PAK, Somalia, Yemen) to receive training, more should be done to monitor such travels and identify travel patterns. A multilateral focus (EU members states + relevant EU agencies + US) on different aspects of terrorist travel and an exchange of information regarding foreign fighters with a common threat perspective could have a significant added value” (Council of the European Union, 2012, p. 3).

As the threat was associated with going abroad to receive the training and the return of foreign fighters from conflict zones, the way to counter it was found in monitoring travels, document checks, and exchange of information. This construction of border control as an important tool to fight terrorism is addressed in the next section but it needs to be stressed here that although the EU has acknowledged that people can radicalise and become terrorists in Europe, it continued to prioritise the focus on third countries. This can be seen in the *Draft Revised EU Strategy for Combating Radicalisation and Recruitment to Terrorism* (2014), which states that:

“47. Terrorist attacks planned against targets in Europe have often had connections outside European territory. Some have been planned in or directly involved people from third countries; some have been externally funded; many have involved people who have been trained abroad (such as foreign fighters). Terrorist attacks abroad have also been conducted by people from Europe. Domestic and international terrorism are often inextricably linked.

48. Ideology developed in third countries and messages broadcast or sent into Europe may have an impact on radicalisation and recruitment to terrorism in Europe. Also travel can be part of the radicalisation process. A significant number of individuals who have been involved in terrorist activities have travelled abroad where they have been influenced by members of terrorist

organisations. It is also important to take into account this Strategy as well as the EU Counter-terrorism strategy in the development of the border management policies, including visa policies, within the existing legal framework in the EU” (Council of the European Union, 2014, p. 13).

A similar statement was provided in the *European Agenda on Security* (2015) where it was admitted that European citizens travel abroad and become foreign fighters who on their return pose a threat to the internal security of the EU. Interestingly, the scale of the threat that the returning foreign fighters pose is questioned by some scholars (see Hegghammer, 2013).

Another feature of this strand and an example of inconsistency can be seen in the EU’s intention to avoid stigmatising any group of people in the context of terrorism. Already in the *Conclusions and Plan of Action* (2001), it can be read that:

“the European Union categorically rejects any equation of groups of fanatical terrorists with the Arab and Muslim world” (European Council, 2001, p. 1).

Moreover, this document claimed a need to counter nationalism, racism and xenophobia as well as the “equation of terrorism with the Arab and Muslim world” (European Council, 2001, p. 4). This refusal to connect any group of people with terrorism was then repeated in the *Stockholm Programme* (2009), *Draft Revised EU Strategy for Combating Radicalisation and Recruitment to Terrorism* (2014) and *European Agenda in Security* (2015). Nevertheless, in parallel, the EU not only constructs terrorism as coming from outside of the EU, but it is also more precise about it and points out certain regions and countries of origin, thus indeed connecting the Muslim world and terrorism. This can be seen in the *Counter-Terrorism Strategy* (2005) where North Africa, the Middle East and South-East Asia were pointed out as requiring help in fighting terrorists, in the document *Preventing Lone Actor Terrorism* (2012), where Afghanistan, Pakistan, Somalia and Yemen were the places of training for terrorism, and in the *European Agenda on Security* (2015) where similar references were made to Syria, Iraq and Libya. Further, the construct of Muslims as terrorists is not only based on the indications of countries the threat comes from but also derives from the focus on Al-Qaeda and groups inspired by it, or from calls for the involvement of Muslim organisations in the fight against terrorism (see Baker-Beall, 2016).

Analysed documents not only named some regions which are the origin of terrorism but also provided some descriptions of them. In the *Counter-Terrorism Strategy* (2005), the EU declared that:

“working to resolve conflicts and promote good governance and democracy will be essential elements of the Strategy, as part of the dialogue and alliance between cultures, faiths and civilisations, in order to address the motivational and structural factors underpinning radicalisation” (Council of the European Union, 2005c, p. 7).

Further, in the same document, it continued by stating that:

“[t]here is a range of conditions in society which may create an environment in which individuals can become more easily radicalised. These conditions include poor or autocratic governance; rapid but unmanaged modernisation; lack of political or economic prospects and of educational opportunities. Within the Union these factors are not generally present but in individual segments of the population they may be. To counter this, outside the Union we must promote even more vigorously good governance, human rights, democracy as well as education and economic prosperity, and engage in conflict resolution” (Council of the European Union, 2005c, p. 9).

This presentation of countries where terrorism originates is very similar to the one presented in the previous section on discourse on immigration: conflicts, problems with rule of law, autocratic governance, poverty etc. Also, again as in the case of countries of origin of immigration, the EU declared help in supporting their security sector:

“[the EU] has a role to play in building capacity abroad, to assist third countries to form and implement their own policies for preventing and countering radicalisation and recruitment to terrorism and how to address messages supporting terrorism” (Council of the European Union, 2014, p. 14).

Therefore, the EU once more presents itself as a defender of security and the one that helps and supports those in need. Terrorism, as well as migration, was constructed as a problem of third countries that due to their conditions are unable to resolve it.

4.2.2. ‘Terrorism as a major security threat’

The next strand that was distinguished in the EU discourse on terrorism does not directly concern the connection between migration, border control and terrorism but is important for the discourse on border control and the usage of security practices for counter-terrorism purposes. This strand stresses the scale of the threat that terrorism poses, implies that nobody can feel safe if it is not countered and therefore contributes to the legitimisation of the use of special measures.

Before 9/11, cooperation in counter-terrorism was important for the Member States in the way that it regarded security after the abolishment of controls at internal borders but it was not until after 9/11 that the EU really focused on this threat and constructed it as something that should concern everybody. In the *Conclusions and Plan of Action* (2001) the European Council stated that its extraordinary meeting was needed to “impart the necessary impetus” to EU actions and claimed that the fight against terrorism “will, more than ever, be a priority objective” (European Council, 2001, p. 1). Terrorism in general and the 9/11 attack specifically were respectively called a ‘real challenge’ and a ‘barbaric act’. The EU also stated that:

“[t]hese attacks are an assault on our open, democratic, tolerant and multicultural societies. They are a challenge to the conscience of each human being”
(European Council, 2001, p. 1).

Thus, the EU constructed terrorism as a threat not only to the US but also to the EU. It is visible in the support offered to the US and even more in the set of actions that are described as ‘necessary’, and the ‘priority’ given to countering it. Furthermore, the EU referred to ‘our’ society, which is not only an expression of solidarity but it also indicates that the attack had implications for the EU. The Western society was described here as ‘open, democratic, tolerant and multicultural’ in opposition to the ‘barbaric act’ of the attack.

The reaffirmation of this construction of terrorism as a major threat to the EU after the 9/11 attack can be found also in the *Conclusions from Seville* (2002) where it was claimed that “terrorism is a real challenge for Europe and the world and poses a threat to our security and our stability” (European Council, 2002, p. 31) as well as in the *Security Strategy* (2003). In the latter, terrorism was described as ‘global’ and one of the ‘key threats’ to the otherwise

‘so prosperous, so secure [...] so free’ Europe (Council of the European Union, 2003, p. 1). It was stated in this document that:

“[t]errorism puts lives at risk; it imposes large costs; it seeks to undermine the openness and tolerance of our societies, and it poses a growing strategic threat to the whole of Europe” (Council of the European Union, 2003, p. 3).

At the same time, the EU used structural opposition of ‘bad’ terrorism and the ‘good’ EU and presented European values as under attack to stress the need for defence. To further emphasise the scale and reality of the threat posed by terrorism to the whole EU, the document also stated that some of the European countries have already been targets of attacks.

The Madrid bombing from 2004 and the London attack from 2005 did not change this construction of terrorism and only reinforced it since the attack took place on EU soil. In the *Declaration on Combating Terrorism* from 2004 it can be read that:

“[t]he threat of terrorism affects us all. A terrorist act against one country concerns the international community as a whole. There will be neither weakness nor compromise of any kind when dealing with terrorists. No country in the world can consider itself immune” (European Council, 2004, p. 1).

In this statement, the European Council claims that not only the EU itself but ‘no country in the world’ can feel safe in the face of the threat coming from terrorism. The attacks in this document were named ‘callous and cowardly’ and were “a terrible reminder of the threat posed by terrorism to our society” (European Council, 2004, p. 1). Further, they were “against the values on which the Union is founded” (European Council, 2004, p. 1). This reference to ‘our’ society and EU values creates a stronger feeling of need for solidarity but also puts terrorists in a space of strong opposition to EU citizens. In the *Hague Programme* (2005) European security was claimed to have gained “a new urgency” due to the terrorist threat (European Union, 2005, p. 1). Then in the *Counter-Terrorism Strategy* (2005) the EU again, very explicitly presented terrorism as a threat that should concern all of us:

“terrorism is a threat to all states and to all peoples. It poses a serious threat to our security, to the values of our democratic societies and to the rights and freedoms of our citizens, especially through the indiscriminate targeting of

innocent people. Terrorism is criminal and unjustifiable under any circumstances” (Council of the European Union, 2005c, p. 6).

This presentation of terrorism was continued also during the last period of analysis. Also here, apart from stressing the scale of the threat, the EU was referring to its values. In the *Internal Security Strategy* (2010) it was stated that:

“[t]errorism, in any form, has an absolute disregard for human life and democratic values. Its global reach, its devastating consequences” (Council of the European Union, 2010, p. 13).

In the document *Preventing Lone Actor Terrorism (...)* (2012), the focus was put on a special kind of terrorism but also in this case it was stated that “[t]he challenge of preventing lone actor terrorism is enormous” and it is possible to minimise the threat it poses but not to eliminate it (Council of the European Union, 2012, p. 2). In the *Draft Revised EU Strategy for Combating Radicalisation and Recruitment to Terrorism* (2014), similarly as in the *Counter-Terrorism Strategy* (2005), terrorism was claimed to be a threat to all people and states but this time it was specified that it includes both citizens and residents.

Referring to European values while emphasising the need for countering terrorism can be significant not only as a tool to legitimise the defence and actions taken by the EU on behalf of European citizens, but also to provide a counter-argument of ethical nature in this battle: since Islamist terrorism, on which the EU focuses, understands jihad as a war in the name of religion, the EU (and the US) defends the values associated with freedom and democracy.

4.3. Discourse on border control

The last section of this chapter focuses on the EU discourse on the question of border controls. As Leese (2016, p. 415) points out:

“[b]orders carry multiple meanings—political, social, economic, geographical, cultural, and not least symbolic—that are closely entangled and must be conceived of as the results of historically contingent social construction. Put differently: borders must not be mistaken for static boundaries. On the contrary,

they are the product of politics that underlie the constraints of discourse and power”.

Following this insight, it is assumed here that discourse on borders not only constructs the borders themselves but also, due to their role and the power that is entrusted to them, it also contributes to the construction of the meaning of ‘inside’ and ‘outside’, as well as what comes from outside.

This section presents three different, but interconnected strands of ‘Open Europe as a threat’, ‘Border as a place of defence’ and ‘Border control as an important tool to fight terrorism’. Similarly to the previous sections, these strands are approached through the presentation of the key words, phrases and linguistic features that were used in the EU documents.

4.3.1. ‘Open Europe as a threat’

In the EU discourse, the pride and appreciation of the Schengen area and freedom of movement are very prominent. For example, in the *Communication on Enhancing security in a world of mobility* (2016), it can be read that “[t]he Schengen area is one of the EU's most cherished achievements (...)” (European Commission, 2016a, p. 2). Nevertheless, across the EU documents, apart from the expression of the importance and value of this achievement, there are also claims about the threat it can pose to EU security. This strand focuses on this construction of ‘open Europe as a threat’ and introduces the other strands on border control, highlighting its necessity.

This glorification of the Schengen area from the *Communication* (2016) was followed by an indication of the threat it poses:

“(...) But the challenge of maintaining security in an open Europe has been put to a huge test in recent years. The pressures of the migration and refugee crisis, alongside a wave of terrorist attacks, have demanded a new approach” (European Commission, 2016a, p. 2).

This document comes from 2016 and refers to the ‘Migration Crisis’ when the unprecedented number of migrants were trying to cross the EU's external borders. It is just one of the examples where the EU expressed its concern about the Schengen area in that situation. As

the migrants were arriving, some countries, like Greece for example, were struggling with controlling their borders. Very soon some member states started to temporally reintroduce controls at internal borders, de facto putting in question the functioning of Schengen. As Ceccorulli (2019) claims, the EU has securitised Schengen, which according to the European Commission was threatened by an internal crisis, in order to preserve it. This could only happen by formal recognition of risk and reconciliation of the uncoordinated moves of the Member States (Ceccorulli, 2019). Therefore, article 29 of the *Schengen Border Code* was triggered, and a Road Map ‘Back to Schengen’ was prepared as saving Schengen was the priority for the EU:

“the survival of Schengen was given priority over any other issue and that became a key aim of the EU’s agenda, shared by the Commission, the Council and the Parliament and accepted by the most relevant empowering audience, the member states. In this security discourse, the ‘saving the lives’ objective was clearly sidelined by that of the ‘security of borders” (Ceccorulli, 2019, p. 313).

Nevertheless, it was not only during the ‘Migration Crisis’ that the EU was concerned with its security after the abolishment of the checks at internal borders. As stated several times, this abolishment was the very reason for many changes to the border control regime and the introduction of new measures. Already at the preparatory stage for the abolishment, in the *Declaration of the Belgium Presidency* (1987), the *Palma Document* (1989) and the *Schengen Convention* (1990), it was assumed that the abolishment of checks at the internal borders would result in an increased security threat, such as immigration, transnational crime and terrorism, therefore the security measures needed to be strengthened. For example, in the *Declaration* (1987), the high modality was used twice in this context: while stating that the abolishment “must be accompanied by, and depends on, a strengthening of controls at the external borders” and while claiming “the necessity to further strengthen (...) cooperation in these matters” of immigration and against drugs and terrorism (Bunyan, 1997, p. 10). The use of this high modality contrasts with the most common one in the EU documents – the medium modality such as ‘should’ or ‘shall’.

This assumption is significant as it is the first link between border control and counter-terrorism and migration policy (in this analysis) and also because it prevails throughout all analysed periods; the fear about the threat that can come from outside did not go away with

the establishment of the Schengen area, the incorporation of its *acquis* into the EU legal framework or with the implementation of the proposed measures. In the *Security Strategy* (2003) it was stated that:

“[t]he post Cold War environment is one of increasingly open borders in which the internal and external aspects of security are indissolubly linked” (Council of the European Union, 2003, p. 2).

This blurring of what is internal and external security is a significant feature of the EU discourse on security and has implications for each of the analysed policies as it requires and legitimises a change of approach the EU undertook. As Bigo (2000) points out, when the period of bipolarity was over, the agencies responsible for external security have started to be occupied with ‘transversal threats’, such as the second generation of immigration inside the borders, while the internal security agencies were searching outside the borders addressing criminal networks. This impacts the understanding of the border. On one hand, the borders were removed inside the Schengen area, and as presented above, this was perceived as a great achievement (also, some physical borders have been removed along with globalisation). On the other hand, some borders have been strengthened, for example, the EU external borders which are also pushed further away from the EU territory. In the long debate about the continuance of presence or increasing absences of borders, it becomes visible that borders no longer align with the traditional understanding of inside and outside (Vaughan-Williams, 2015, ch. I).

The claim about the connection between internal and external security was repeated in the *Counter-Terrorism Strategy* (2005), where also globalisation, next to ‘open Europe’, was presented as a possible threat and a tool in the hands of terrorists:

“[t]he European Union is an area of increasing openness, in which the internal and external aspects of security are intimately linked. It is an area of increasing interdependence, allowing for free movement of people, ideas, technology and resources. This is an environment which terrorists abuse to pursue their objectives. In this context concerted and collective European action, in the spirit of solidarity, is indispensable to combat terrorism” (Council of the European Union, 2005c, p. 6).

Significant attention to this matter was provided in the *Internal Security Strategy* (2010) where, it was stated that the main criminal threats that the EU faces, among which terrorism is the first one, “adapt extremely quickly to changes in science and technology, in their attempt to exploit illegally and undermine the values and prosperity of our open societies”(Council of the European Union, 2010, p. 7). Further, while referring to the prosperity the EU citizens can enjoy, the Council stated that:

“with such opportunities also come risks, as terrorists and other types of criminals seek to abuse those freedoms in the pursuit of destructive and malicious ends” (Council of the European Union, 2010, p. 11).

This construction of ‘open Europe’ as a possible threat lead to the claim that “[s]ecurity has therefore become a key factor in ensuring a high quality of life in European society” (Council of the European Union, 2010, p. 11).

In these documents, the EU presented itself as almost a paradise while praising its prosperity. However, due to its welfare, it acknowledged the threats it can face from terrorists and criminals that can use the EU’s openness to attack it. In this way, it legitimised border controls: the internal paradise of a free EU must be protected from the outside; if the borders are removed inside, outside borders must be strengthened. As such, this strand introduces the strands that are further discussed below: ‘border as a place of defence’ and ‘border control as an important tool to fight terrorism’. However, it also relates to the strand in the previous section, ‘Terrorism as an external threat’, as this threat from the outside was usually linked to terrorism.

4.3.2. ‘Border as a place of defence’

As Wittendrop (cited in Leese, 2016, p. 417) points out, the discourse on borders in the EU has been evolving over time around two main constructions: borders as “‘barriers’ which need to be removed for the sake of wealth and prosperity; and as ‘filters’ for security purposes in order not to jeopardise such wealth and prosperity”. As presented above, the removal of the checks on the internal borders was perceived as a great achievement. However, the open Europe which has been created as a result of it was presented as both a paradise and a threat. The external borders, since the beginning of the creation of the freedom of movement, have to a great extent been considered as responsible for protecting the EU

from the outside, from those who would like to take advantage of this openness. The importance of strengthening the external borders has been repeated in many documents such as the *Declaration of the Belgium Presidency* (1987), *Palma Document* (1989) or *Schengen Convention* (1990). Therefore this strand addresses the EU representation of the external borders as the places of defence.

Various key words that construct the borders as a place of general security importance appear in the documents analysed: ‘through check’, ‘security’, ‘prevention’, ‘detection’, ‘surveillance’, ‘intensification of exchange of information’, ‘effectiveness’, ‘risk analysis’, ‘operational cooperation’. These terms clearly display the expectation from the controls at the borders to recognise the threats and prevent any undesired individuals from entering the EU territory. In the *Regulation on Frontex* (2004) it was stated that:

“[e]ffective control and surveillance of external borders is a matter of the utmost importance to Member States regardless of their geographical position”
(European Union, 2004, p. 1).

This statement emphasises the gravity of border controls in the context presented in the previous subsection: as the EU removed the checks at the internal borders, the safety of the external borders is in the interest of all Member States due to this openness. This document confirmed that the external borders are aimed at providing “a uniform and high level of control and surveillance” and stated that the established European Agency for the Management of Operational Cooperation (Frontex) will use risk analysis in order to properly identify threats and prepare a response to them (European Union, 2004, p. 1).

Frontex, as well as the new tools for border control, for example, Eurosur, plays a significant role in this representation of border as a place of defence. While the ‘new’ Frontex, that is the European Border and Coast Guard Agency, and some of the tools are analysed in the next chapter, some terms and phrases that are presented in their regulations should be pointed out here. In the *Regulation on Eurosur* (2013), a high modality ‘necessary’ was used to present the importance of the established system to “strengthen the exchange of information and the operational cooperation” (European Union, 2013b, p. 11). The purpose of Eurosur was identified with “detecting, preventing and combating illegal immigration and cross-border crime” (European Union, 2013b, p. 11). The usage of terms such as ‘operational cooperation’, or ‘detecting’, as well as ‘reaction capability’, ‘combating’, ‘situational

awareness' in this regulation, indicate security if not a military context of the border. Pugliese (2013, p. 578), while referring to the description of the situational picture where words like: “‘platforms’, ‘situational awareness’, ‘situational crisis’, ‘reaction capability’ and the ‘combating [of] illegal migration’ were used, claims them to be of “militarised lexicon” and to “represent the border in terms of a theatre of war”.

Similarly to the surveillance system, the ‘new’ Frontex was also established during the ‘Migration Crisis’. As Niemann and Speyer (2018) point out, the European Commission was very fast in drafting its proposal. They claim that the timing together with the European Commission’s narration on the dysfunctionalities of the border control and its importance for the EU security were just perfected for it to be accepted in face of the refugee flow. Thus the crisis, in addition to the construction of the external borders as crucial for EU security, was used to legitimise the establishment of this ‘new’ Frontex. Further, its establishing Regulation (2016) was very explicit about the aim of the controls at the borders that not only ought to manage the migration flow but also to address threats and “ensure a high level of internal security within the Union, safeguard the functioning of the Schengen area (...)” (European Union, 2016a, p. 2).

The time of the ‘Migration Crisis’ was especially important for this construction of the external borders as a place of defence as their role was emphasised in many documents. In the *Schengen Borders Code* (2016) they were claimed to be important for “combat[ing] illegal immigration and trafficking in human beings and to prevent any threat to the Member States’ internal security, public policy, public health and international relations” (European Union, 2016b, p. 2). It was also again repeated that the controls do not only include checks at the crossing points and surveillance but contribute to providing security through risk analysis. The security implications of the border controls were also raised in the *Global Strategy for the European Union’s Foreign and Security Policy* (2016).

This representation of the border aligns with the picture constructed by other strands where immigrants and terrorists, both of significance for security, were presented as threats that come from the outside and should be addressed with the usage of border control tools. The EU external borders are not, however, a fixed and permanent wall: while they might be geographically determined, when it comes to the control, the EU aims beyond them. Moreover, the external borders do not stop everything that comes from outside, as some

migrants are beneficial for the EU. They are more like a ‘filter’ that decides who can enter – legal immigrants, asylum seekers, and who have to be stopped – terrorists, criminals, illegal/irregular immigrants. Therefore, following Leese’s (2016, p. 418) presentation of Foucault’s understanding of ‘biopolitics’, the focus is moved from demarcating the territory to controlling the circulation that occurs, to “sifting the good and the bad”.

4.3.3. ‘Border control as an important tool to fight terrorism’

Borders, as presented above, were constructed as critical for providing security, as a place of defence for Europe that, due to its openness, is potentially vulnerable to terrorist attacks. Border controls have been given many tasks. They were presented as a provider of security in several ways: they control and stop illegal/irregular immigration, they are the first point of identification of asylum seekers and they take part in fighting cross-border crime and terrorism. This strand in the discourse on border control refers to this last goal, to the construction of border control as an important counter-terrorism tool.

As pointed out above, while cooperation in counter-terrorism policy was already important to intergovernmental cooperation prior to 9/11, the actual presentation of border control as a significant tool to fight terrorism can be seen after the Madrid bombing in 2004. For the first time in the documents analysed, border control was referred to as ‘important’ for the purposes of fighting terrorism in the *Declaration on Combating Terrorism* (2004). This claim was followed by a statement of a need to speed up the work on measures in this area. Although it was claimed that Frontex would have been established without this attack and was not a result of the securitisation of migration (Neal, 2009), the *Declaration* (2004) proposed the adoption of its establishing Regulation in May (with operational capability by January 2005), which indicates that Frontex, as well as the management of migration and control of borders, was to be of importance for counter-terrorism. This discourse on border control is visible also in the revised *EU Plan of Action on Combating Terrorism* (2004) where its effective system was named one of the objectives, and in the *Prüm Convention* (2005). The *Counter-Terrorism Strategy* (2005) was more detailed about how to use border control to fight terrorism, for example, by using biometrics in passports. It was stated there that:

“[w]e need to enhance protection of our external borders to make it harder for known or suspected terrorists to enter or operate within the EU. Improvements in technology for both the capture and exchange of passenger data, and the inclusion of biometric information in identity and travel documents, will increase the effectiveness of our border controls and provide greater assurance to our citizens. The European Borders Agency (Frontex) will have a role in providing risk assessment as part of the effort to strengthen controls and surveillance at the EU’s external border” (Council of the European Union, 2005c, p. 10).

The EU confirmed here that it is afraid of terrorists entering the territory undetected which contributes to the strand that presented terrorism as a threat that comes from outside. It also referred again to Frontex and indicated its role in counter-terrorism.

As indicated in the quote provided in the subsection on the strand ‘terrorism as an external threat’, the document *Preventing Lone actor Terrorism - Food for Thought* (2012) also pointed out the importance of border control in addressing the threat of ‘lone wolves’ and returning foreign fighters:

“Given that some lone actor terrorists have travelled abroad (AF/PAK, Somalia, Yemen) to receive training, more should be done to monitor such travels and identify travel patterns. A multilateral focus (EU members states + relevant EU agencies + U) on different aspects of terrorist travel and an exchange of information regarding foreign fighters with a common threat perspective could have a significant added value” (Council of the European Union, 2012, p. 3).

Later in this document, specific tools were indicated:

“[i]t shows the need to detect and follow people who travel to conflict zones and then return to Europe. Visa and PNR information can offer a means of detecting their travel patterns. A whole range of other measures could be considered as well, such as the improvement of documents checks and documents security, an enhanced exchange of information and a better international cooperation” (Council of the European Union, 2012, p. 8).

In this case, the border control tools are presented as necessary to counter the threat coming from foreign fighters due to the attacks conducted upon their return. A very similar statement

can be found in the *Draft Revised EU Strategy for Combating Radicalisation and Recruitment to Terrorism* (2014) where the number of terrorists that travelled abroad was named ‘significant’. It is an example of an aggregation that gives the impression of a serious scale of this phenomenon.

Again, the period when the most attention was put on both migration control and terrorism was the time of the ‘Migration Crisis’. The *European Agenda on Security* (2015) used a high modality ‘essential’ to repeat the importance of border management for the prevention of cross border crime and terrorism. Interestingly, in the *Communication on Enhancing security in a world of mobility* (2016), it was acknowledged that the fight against terrorism cannot rely only on border management, but it was claimed to be an integral part of it:

“Whilst borders are only part of the solution to security, gaps in border control bring gaps insecurity. The emergence of foreign terrorist fighters as a major security risk has underlined the cross-border threat and the particular importance of comprehensive and effective border checks, including on EU citizens. (...) This puts the focus on entry procedures and external border management. It calls for checks which are thorough, but which avoid unnecessary delays, pointing to the benefits of screening before travel. It requires quality and certainty in identity documents, facilitated by comparable security features and common approaches to fighting document fraud. It underlines the need for border controls to be secure, swift and modern, with systems and procedures allowing for quick and reliable access to the information needed to check identity and status” (European Commission, 2016a, p. 4).

This document thus called for ‘thorough’ checks and presented the possibilities of improvements of various border control tools as well as of introducing new ones, for example, an Entry-Exit System (EES). At that point, the fight against terrorism claimed the need for access and usage of various migration control tools. This narration was continued in the *Communication on Stronger and Smarter Information Systems for Border and Security* (2016) where it was claimed that terrorists have used the routes of irregular immigration so implying the need for stronger controls and presenting migrants as the potential terrorist threat. Somehow a culminating point for the construction of border control as important for the fight against terrorism was providing Frontex with the task of contributing to the prevention and detection of terrorism, even though it was more a formal step, as such

expectation could be noticed even before. Frontex's role in counter-terrorism, especially its cooperation with Europol, is however addressed in the next chapter.

4.4. Conclusions

This chapter presented various strands in the EU discourse on migrants, terrorists and border control. Important observations should be pointed out. First, the EU has placed considerable attention on illegal and irregular immigration which has been both criminalised and victimised: these immigrants were constructed as those in need of help alongside refugees and asylum seekers, and as the main source of threat closely connected with organised crime, drugs and terrorism. They were also opposed to 'good' immigrants that are needed in the EU. Besides this structural opposition between the 'good migrants', which include refugees/asylum seekers and highly skilled legal migrants that fit the needs of EU labour markets, and the 'bad migrants' identified with illegal and irregular immigration that needs to be countered; there is also the opposition between immigrants versus EU citizens/society. Second, migration was constructed as a security threat in a number of important ways: through the usage of certain terms, the construction of the terrorist threat and the role of border control. Among the linguistic constructions, wordings such as 'illegal immigration', 'combating illegal immigration' or 'better controlling of migration' were pointed out. As observed, there was a visible shift from 'illegal' to the term 'irregular' immigrant, however, the word 'illegal' has been still appearing in some documents. The importance of changing this rhetoric that bolsters the link between migration and security was raised by Carrera (2011). McMahon and Sigona (2018) point out that this criminalisation of illegal/irregular migrants leads to the establishment of two groups that Carling (cited in McMahon and Sigona, 2018, p. 501) refers as to "the special people – our people, refugees" and "the other people, migrants".

Terrorism in the EU discourse was constructed as a very serious threat that requires special measures. Due to its second construction of an external threat, border control measures became key to counter it. This created a crucial connection with migration management. Moreover, the third countries as poor states struggling with many problems including

corruption, drugs, and crime that were presented as the source of both, immigration and terrorism. In both cases, the EU has declared help to these countries, mainly in the form of enhancing their security capabilities. The incapability to counter terrorism and control migration in these third countries was presented as an important threat to the EU.

Third, there are various links between those strands. The key starting assumption was indicated in the strand 'Open Europe as a threat'. The great achievement of the abolishment of the checks at internal borders in the Schengen area is the very reason for constructing open Europe as a potential threat. This construction directly leads to the construction of borders as places of defence from the threats that come from the outside. On the one hand, the discourse on migration and terrorism legitimises the one on border control – if both matters are constructed as threats, border control logically seems to be the form of defence. On the other hand, if the border is seen as a place of defence, it contributes to the securitisation of what comes from abroad, migration and terrorism.

The analysis of the discourse on migrants and terrorists encourages revisiting Boswell's (2007) claim about the lack of securitisation of migration after 9/11. Squire summarises (2015, pp. 22-23), Boswell's arguments as follow: 1. migration and terrorism present incongruous images; 2. migration has not been related to terrorism due to the lack of empirical evidence of a link between them; 3. there is a clash between securitisation and more liberal migration policies in some European countries. Boswell (2007, p. 598) claims that terrorism has been presented as based on highly organised, well-trained cells with resources, which contrasts with 'destitute and desperate' immigrants. Although this representation of terrorism aligns with the discourse described in this chapter, there are some differences in the presentation of migration. As observed, prior to 9/11, in addition to the discourse on asylum seekers in need of help, migrants have been presented as those who can abuse the system and are connected to organised crime. Furthermore, apart from the similarities in the descriptions of the countries of origin, the EU counter-terrorism policy over the years has been mostly focused on Islamist radicalisation and migration from Muslim countries. Although, as mentioned, the EU rejected any equation of the Muslim world with terrorism, in its discourse, the othering of Muslims and their representation as potential terrorists can be observed, as raised by Baker-Beall (2011).

Another feature that should be taken into account and which Boswell (2007) diminishes, is border control. Boswell (2007) argues that there is a lack of empirical evidence of a connection between terrorism and migration (Boswell, 2007). Indeed, many of the terrorists that have committed attacks were born in Europe or were legal residents there, but after the Madrid bombing (2004) border control was given significant importance in counter-terrorism. The usage of migration control tools for counter-terrorism purposes indicates the link and constructs migrants as a possible terrorist threat.

The last of Boswell's (2007) arguments refers to the liberalisation of the migration policy in some European countries, especially, openness for labour force from outside the EU. However, in the analysis of the discourse on immigration, it was presented that both strands of 'Immigration as both problem and benefit to the EU' or "Immigration as a matter of security" were parallel: the EU documents have been pointing out the value of legal migration for the labour market and its increasing needs while framing the illegal/irregular immigration as a security matter. Therefore, the facilitation of legal migration does not directly preclude securitisation.

5. Securitisation through practices

The analysis of the EU discourse on migration, terrorism and borders presented thus far has focused on, as argued by Vaughan-Williams (2015, ch. 1, p. 3), the way in which the irregular migrant is “caught between the discourse of securitisation and humanitarianism” and that the discourse on terrorism and border control further contribute to the representation of migration as a threat. This chapter moves the attention to the security practices that according to Bigo (2000) and other scholars following him (for example Balzacq, 2008; Léonard, 2010a), can also securitise an issue.

The security practices analysed in this chapter are related to the establishment of the Schengen area and the abolishment of internal border controls. The facilitation of the movement for EU citizens has been embedded in the strengthening of the controls for the others. As Leese (2016, p. 413) points out, the main problem of governing contemporary borders is “the nexus between openness and scrutiny”. Freedom of movement, as Bigo (2011, p. 33) notes, became considered in the EU “as an overarching value that can be contrasted with security” and that can be limited in the face of a threat. This understanding of freedom allows, according to Guild and Bigo (2005) for ‘policing in the name of freedom’. The borders have thus become the place of distinction between ‘bona fide travellers’ and ‘crimmigrant bodies’ (Ferraris, 2017). The classification of the immigrants takes place through the usage of different tools that rely on more and more advanced technology. Security checks increasingly target specific groups, take place before arrival, often at distance from the EU territory and rely on statistics, surveillance and biometrics. An important claim in this context was made by the European Data Protection Supervisor (EDPS):

“The underlying assumption in the communications (especially in the entry/exit proposal) is worrying: all travellers are put under surveillance and are considered a priori as potential law breakers” (EDPS, 2008, p. 5).

In order to strengthen the security of the EU after the abolishment of controls at internal borders, various new tools have been adopted. This chapter focuses on four specific policy instruments: the Schengen Information System (SIS), Visa Information System (VIS), Eurodac and Eurosur. These tools were selected as a subject for the following analysis due

to three reasons. First, all of them have been established for the purpose of immigration control, and, except for SIS, primarily target third-country nationals. Second, all of them are now also used as counter-terrorism measures. Thirdly, although the SIS, VIS and Eurodac were previously analysed in terms of their securitising character by Balzacq (2008)²⁹, since 2008 the EU has experienced new events such as the ‘Arab Spring’ and the ‘Migration Crisis’ which, as claimed here, have affected the EU response to migration, border control and counter-terrorism. These tools have gone through amendments hence their re-evaluation seems necessary. Further, Eurosur was not yet a subject of such analysis.

Apart from the creation of the databases, the EU has also established various agencies responsible for the coordination of cooperation in different areas. From the perspective of the blurring of the lines between migration management and counter-terrorism policy, two agencies were selected for this analysis: Europol and Frontex. Frontex was previously the subject of analysis in terms of securitisation through practices by Léonard (2010a). However, as in the case of the databases, since 2010 Frontex also went through several amendments and while Léonard's (2010) research focused on Frontex's main tasks is extremely valuable, here the attention is focused on the cooperation between Frontex and Europol.

The following analysis, while referring to ‘securitising practices’ and ‘securitising tools/instruments’, follows Balzacq's (2008, p. 79) definition presented in Chapter 2:

„[a tool of securitisation is] an identifiable social and technical ‘dispositif ’ or device embodying a specific threat image through which public action is configured in order to address a security issue”.

The analysis consists of the presentation of the evolution of the selected policy tools (changes introduced since Balzacq's analysis) and examining their securitising character following the aforementioned definition and Léonard's (2010a) characteristics (1. deployment of tools previously used to tackle issues widely accepted as a security threat, 2. exceptional character of tools). In doing so, it considers how migration is presented as a threat especially by connecting it to terrorism.

²⁹ In his analysis, Balzacq (2008) also included external models of information exchange such as PNR and Europol-USA agreements that have been omitted here as the focus is put on the internal systems. For tools such as Entry-Exit System, API and PNR see Mitsilegas (2009).

5.1. Schengen Information System (SIS)

The Schengen Information System (SIS) has been the first European database and was created for the purpose of implementation of the *Schengen Agreement* (1985). It is the largest information sharing system that since its beginning has been considered as a ‘compensatory tool’, necessary for the removal of checks at the internal borders of the Schengen states. Although the *Schengen Agreement* (1985) and the *Schengen Convention* (1990), which established SIS, were signed at first only by a few states, the European Commission was participating and supporting the work of the Schengen Group (Brouwer, 2008). The Schengen acquis was further incorporated into the EU legal framework by the *Amsterdam Treaty* in 1997, becoming binding for the EU Member States³⁰. This section presents the evolution of this tool and points out significant changes to it from the perspective of securitisation of migration. It builds upon the analysis conducted by Balzacq (2008) and Brouwer (2008) and takes it further considering the changes made to SIS in 2018. It also provides statistical data regarding the usage of SIS for migration management purposes.

SIS is a ‘hit’ or ‘no hit’ database that consists of a central database and a network of national databases. According to art. 93 of the *Schengen Convention*, its aim has been to “maintain public policy and public security (...) and to apply the provisions of this Convention relating to the movement of persons” (European Communities, 1990b, p. 52). Thus, since the beginning, it was not only a border management tool but also a security tool designed to permit searches in order to access alerts on persons, objects and vehicles. These alerts could be issued for persons wanted for arrest (art. 95), for purposes of refusing entry (art. 96), for missing persons (art. 97), for persons sought to assist with a judicial procedure (art. 98), for purposes of discreet surveillance (art. 99) and for the purposes of seizure or use as evidence in criminal proceedings (art. 100) (European Communities, 1990b). Art. 96 (the refusal of entry) could be applied if an alien posed threat to public policy, public security or to national security, especially if that person was imprisoned for at least one year or when there are important reasons to believe that this person committed or will commit a serious crime (European Communities, 1990b). In the *Schengen Convention* (1990), access to SIS was given to the authorities responsible for border checks and other police and customs checks,

³⁰ The UK and Ireland have been only partially involved in the Schengen acquis.

however, in the context of art. 96, it could be also provided to the authorities responsible for examining visa applications, issuing visas and residence permits as well for the administration of legislation on aliens (art. 101). The consequence of introducing an alert for a person in SIS is the refusal of entry to any Schengen state.

According to the data obtained by Brouwer (2008, pp. 66-68), between 1999 and 2006³¹, most of the data entered into SIS concerned the refusals of entry (85-89%) which would highlight its migration control character. Further, also in terms of the number of ‘hits’ in SIS between 1997 and 2004, in most of the cases, they were produced because of art. 96 (60-70%) (Brouwer, 2008, p. 68). However, by comparing the number of stored records with the number of produced ‘hits’ (for the art. 95, 96, 97, 98, 99), Brouwer (2008) claimed a low effectivity of SIS in terms of art. 96. For example, in 2005 only 2.8% of the records resulted in ‘hit’ in the case of the art. 96, while for art. 95, that is for the alerts for people wanted for arrest, it was 25.1% (Brouwer, 2008, p. 69). In other words, while a high percentage of alerts in SIS concerned people to be refused entry or stay, the effect of storing their data was significantly smaller comparing to other categories.

As said above, SIS as a securitising tool was already analysed by Balzacq (2008, p. 84) who claims then that:

“the fight against international terrorism has transformed the SIS from a ‘support tool’ for the free movement of persons and police co-operation to an investigative tool. This has essentially taken two forms: new kinds of data have been included in the SIS; and agencies, other than those tasked with border control, have been given access to it (Council,2002, p. 2)”.

Balzacq (2008) points out the impact of 9/11 on striving for the usage of biometric data and Europol’s expansion of operational territory. Although providing Europol access to SIS has been debated among the Member States already in 1998 (European Communities, 1998), according to Balzacq (2008), 9/11 gave a new impulse to the usage of the SIS for the purpose of the fight with terrorism. Indeed, Europol which is an agency tasked with improving “the effectiveness and cooperation of the competent authorities in the Member States in preventing and combating terrorism, unlawful drug trafficking and other serious forms of crime” (European Communities, 1995a), was given access to SIS by the *Council Decision*

³¹ The cited author did not provide data for 2002.

2005/211/JHA. Nevertheless, in 2005 Europol only gained access to data under art. 95, 99 and 100. This exclusion of art. 96, as Balzacq (2008, p. 86) points out, could suggest that the “Member States have so far resisted the idea of securitizing the third-country nationals to be refused entry”. However, Balzacq (2008) notes that this access was given to national judicial authorities, which makes the third-country nationals to be refused entry constitutive of the security continuum. Therefore, a tool that was created to compensate for the removal of checks at the internal borders and was mainly used for migration control purposes (as presented above), started to change its character. Balzacq (2008, p. 86) claims that from a ‘reporting tool’, it became a reporting and ‘investigating system’.

This was, however, only the beginning of the changes to SIS. The EU enlargement from 2004 created a need to transform SIS into a system that would be technically feasible for a larger group of users. The decision on the establishment of SIS II was already taken in 2001 (European Communities, 2001). Although the official reason for its adoption was the limited capacity of SIS I, as Brouwer (2008) points out, since early on, it was used as an opportunity to add new functions to the system. An important aspect of the different proposals for SIS II was its usage for counter-terrorism purposes. SIS II was finally established in 2006 (European Union, 2006b) and became fully operational in 2013 replacing SIS I.

Differently from SIS I, the purpose of SIS II includes the goal of “ensur[ing] a high level of security” (European Union, 2006b, p. 7) which stresses its security character. Among the main changes, the possibility of creating links between alerts, the new categories of alerts and the use of biometric data can be pointed out. The introduction of the letter was criticized by the EDPS and the Article 29 Working Party (Brouwer, 2008). The EDPS (2006a, p. 39) argues that the introduction of biometrics “should have been better thought through”, criticising the lack of impact assessment and raising concerns over overestimating their role. Some modifications also concerned art. 96. According to Brouwer (2008), an important improvement in this area was the requirement of individual assessment while introducing a new alert and the need to determine “whether the case is adequate, relevant and important enough to warrant entry of the alert in SIS II” (European Union, 2006b, p. 13). Brouwer (2008), however, points out the contradiction of these provisions with an earlier agreement of Member States on a ‘systematic’ approach to the use of the SIS and the lack of harmonisation of criteria for registration of third-country nationals to be refused entry. Further, the *Regulation on SIS II* replaced *Schengen Convention’s* “clear evidence” with

“clear indications of an intention to commit such an offence”, which indicates a more preventive attitude and leaves more space for interpretation for the national authorities. It also added a new category of third-country nationals to be refused entry that refers to those on the EU terrorist list (Brouwer, 2008). This shows the beginning of its role in counter-terrorism.

In terms of statistics, in 2013, when SIS II became operational, it contained 50,279,389 alerts in total (EU-LISA, 2014). During the ‘Migration Crisis’, this number increased to 70,827,959 alerts in 2016 (EU-LISA, 2017). In both 2013 and 2016, most of the alerts concerned issued documents and alerts on persons constituted only respectively 1.17 and 1.71% of all alerts. Nevertheless, among those, the alerts on third-country nationals to be refused entry were again the majority. There was an increase in these alerts from 58% in 2013 to 72% in 2016 (EU-LISA, 2014, 2017). Also, in terms of hits produced by these alerts, there was a slight increase from 22,702 in 2013 to 29,746 in 2016 (EU-LISA, 2014, 2017). However, while in 2013, hits produced by art. 24, referring to third-country nationals to be refused entry or stay in the *SIS II Regulation*, were the second category with the biggest number; in 2016, it was the fourth category amongst those with the biggest number of hits. Also, the effectiveness of alerts for art. 24, following Brouwer (2008) understood as the proportion of the number of alerts and hits, was still the lowest compared to other alerts on persons (in 2013: 3.6%, in 2016: 6.1%) (EU-LISA, 2014, 2017).

Considering the changes introduced in SIS II, also Brouwer (2008) argues that SIS was transformed into an intelligence tool. Although providing access to alerts based on art. 96 to Europol and Eurojust was not included in the Regulation on SIS II, it was widely discussed by the Member States and more changes to SIS were deemed needed during the ‘Migration Crisis’. In the *Communication on Stronger and Smarter Information Systems for Borders and Security* (2016), it can be read that better information exchange is a priority due to various shortcomings in the systems. In the case of SIS, the following improvements were pointed out as necessary: Automated Fingerprint Identification System (AFIS) accessible by Europol, new alerts on irregular migrants subject of return decision and on ‘Wanted Unknown Person’, the use of facial images for identification, automated transmission of information in case of ‘hit’ and the storing of ‘hit’ information (European Commission, 2016b, pp. 7-8).

The new Regulations on SIS³² were approved in 2018 introducing various changes in terms of sharing information, usage of biometrics, fight against terrorism, vulnerable persons, irregular immigration and access to SIS (European Commission, 2020). Firstly, while the Member States still have to determine “if the case is adequate, relevant and important enough” for issuing an alert, it was added that terrorist offence should be understood as fulfilling these requirements and not introducing an alert should be an exception (European Union, 2018b, 2018d). Further, a new category of alerts on ‘Unknown Wanted Persons’ was also established. These alerts, as others on persons, will contain also dactyloscopic data (fingerprints and palm prints) discovered at the scene of terrorist offences or other serious crimes (European Union, 2018a, 2018d, 2018b).

Another new category of alerts refers to third-country nationals subject to a return decision. What is important, access to those alerts, as well as to alerts for refusal of entry or stay, was given not only to national authorities, as detailed in art. 34 of *Regulation 2018/1861*, but also to Europol (art. 35 of the Regulation 2018/1861). It was argued that this access is necessary for the purpose “of supporting and strengthening action by the competent authorities of the Member States and their mutual cooperation in preventing and combating migrant smuggling and facilitation of irregular migration” (European Union, 2018a, p. 12). Thus, after many years of disagreements on providing Europol with access to these alerts, according to art. 35 of *Regulation 2018/1861*, it was given the right to access and search in SIS as well as to exchange and request supplementary information (European Union, 2018d).

While SIS has been a security and border management tool since the beginning, its character has been changing across time which, according to scholars (Balzacq, 2008; Brouwer, 2008), resulted in the emergence of an investigative/intelligence tool. Even though as observed, SIS has not been especially effective in the case of alerts of persons to be refused entry or stay, it was undergoing changes resulting in adding new categories and widening access to alerts. The latter was pointed out by Balzacq (2008) as a reason why SIS has contributed to the

³² *Regulation (EU) 2018/1860 of the European Parliament and of the Council of 28 November 2018 on the use of the Schengen Information System for the return of illegally staying third-country nationals; Regulation (EU) 2018/1861 of the European Parliament and of the Council of 28 November 2018 on the establishment, operation and use of the Schengen Information System (SIS) in the field of border checks, and amending the Convention implementing the Schengen Agreement, and amending and repealing Regulation (EC) No 1987/2006; Regulation (EU) 2018/1862 of the European Parliament and of the Council of 28 November 2018 on the establishment, operation and use of the Schengen Information System (SIS) in the field of police cooperation and judicial cooperation in criminal matters, amending and repealing Council Decision 2007/533/JHA, and repealing Regulation (EC) No 1986/2006 of the European Parliament and of the Council and Commission Decision 2010/261/EU.*

securitisation of migration. However, while in 2005 the access was given to national judicial authorities, in 2018 it was provided to Europol. The changes made to SIS II in 2018 were a result of the problems that have arisen and intensified during the ‘Migration Crisis’. It can be seen as a consequence of the belief presented in the *Communication on Stronger and Smarter Information Systems for Borders and Security*: “[t]here is evidence that terrorists have used routes of irregular migration to enter the EU and then moved within the Schengen area undetected” (European Commission, 2016b, p. 2). Such evidence has not been however offered. SIS became an important tool in counter-terrorism while it did not stop being a migration management tool. As pointed out, Europol not only gained access to alerts on persons to be refused entry or stay, that is those who could be considered as a threat, but also to alerts on third-country nationals subject to a return decision. In this way, SIS contributed to the establishment of the connection between migration management and counter-terrorism. According to de Kerchove and Höhn (2020, p. 289), the improved SIS “is key to identifying terrorist suspects entering the EU”. Nevertheless, not only the role in counter-terrorism made SIS, following Balzacq's (2008, p. 79) definition, “a device embodying a specific threat image”. The changes to SIS consist of a consistent reliance on new technology and prevention to better identify ‘crimmigrant bodies’ which also contributes to the representation of migration as a threat.

5.2. Visa Information System (VIS)

The next tool addressed in this chapter is the Visa Information System (VIS) which was established by the EU in order to allow the exchange of visa data. It is another tool that was analysed by Balzacq (2008) and Brouwer (2008). This section, in order to present its evolution, starts with the presentation of the assumptions on visa policy in the EU, then addresses the establishment of VIS, its evolution and finally, the regulations on interoperability. In doing so, it refers to several concerns regarding this tool that were raised by the EDPS.

The visa policy that serves the purpose of deciding which foreigners are and are not allowed to enter the country, was always the national states’ competence. However, in view of achieving the freedom of movement and establishing the Schengen area, it was deemed

necessary to create a common list of countries whose nationals would need a visa to enter the territory. Such a need was already pointed out in the *Schengen Agreement* (1985) and the *Declaration of the Belgium Presidency* (1987). In the latter, the aim of common visa policy was described as work towards a unified visas system that includes common criteria for visas and “better controlling the problems which result from immigration in general” (Bunyan, 1997, p. 10). In the *Schengen Convention* (1990), it was stated that signatory countries will pursue the harmonisation of their policies on visas, while a uniform short-stay visa should be introduced for nationals from the third countries that are subject to visa agreements common for all signatory countries (European Communities, 1990b). Thus, a so-called ‘black list’ was created, containing lists of states whose nationals need a visa when entering the Schengen area and a ‘white list’ of those countries whose nationals are relieved from this obligation. In the case of other European countries, the Trevi Group decided to create the ‘white list’ and the ‘black list’ containing fifty countries in 1988 (Brouwer, 2008). Significantly, as Brouwer (2008, p. 28) points out, it was said that the decision of blacklisting “should be based on solidarity, regardless of whether a Member State was having a problem with a particular country or not” and rely on criteria such as security risk as well as a large number of asylum seekers and illegal immigrants produced by a country. While, in view of creating the area of free movement of people, such solidarity seemed crucial, it had a negative impact on visa seekers: it meant that third-country nationals from a certain country who have been a problem for one Member State would not be allowed in any Member State.

Regulation 2317/95 in this area was adopted in 1995 and included a list of 101 countries whose nationals required a visa. The list has been changing and the last regulation was adopted in 2018. Art. 1 of the *Regulation 2018/1806* states that the decision whether nationals from third countries are required to be in possession of a visa, should be taken on basis of a case-by-case assessment that considers a wider than previously set of criteria related among others to:

“illegal immigration, public policy and security, economic benefit, in particular in terms of tourism and foreign trade, and the Union's external relations with the relevant third countries, including, in particular, considerations of human rights and fundamental freedoms, as well as the implications of regional coherence and reciprocity” (European Union, 2018c, p. 43).

Therefore, the list of the criteria to be considered when putting a country on the black list was extended. Further, this *Regulation* (2018) apart from pointing out additional cases when the visa is not needed, also indicates when a suspension of this exemption is possible (art. 8). This is when there is a significant rise in the number of third-country nationals who have been denied entry or who have been found to remain in the territory illegally, when there is a significant rise in the number of asylum applications from countries with low recognition rate, when there is a decrease in cooperation on readmission with the third country and when there is a rise in risk or imminent threat to public policy or internal security (European Union, 2018c)³³.

It can be seen that the requirement of possession of visa depends on several factors, including the number of immigrants from a country. As Balzacq (2008), following Guild, points out, the rationale behind visa policy leads to a priori treatment of immigrants as a threat. In this sense, Balzacq (2008) claims that the visa is a securitising tool. Nevertheless, the Member States did more than just establish common lists. The need of establishing a system that would allow consultation of visa lists of other countries was already put forward by France in the 1990s and a computerised consultation network VISION was created to be used for certain categories of visa applications (Brouwer, 2008). Nevertheless, as Brouwer (2008) points out, 9/11 brought back the pressure from some Member States to establish a European database. The importance of VIS for counter-terrorism purposes can be seen for example in the policy questionnaire set up by the Spanish delegation (2001) that included countering terrorism as one of the objectives for the database (Brouwer, 2008) or in including the establishment of VIS in the ‘Road Map’ of the measures to be implemented under the *Action Plan* from 2001 in the response to 9/11 (Council of the European Union, 2001). Another often mentioned area for which the establishment of VIS was to be important in eyes of the European Commission was illegal immigration (Brouwer, 2008).

The idea of the creation of VIS was agreed upon in 2002. Both the fight against terrorism and the return of illegal immigrants were indicated as two of the six goals of VIS (Brouwer, 2008). After a decision to establish VIS in 2004³⁴, the *VIS Regulation* was adopted in 2008³⁵. The database became operational on a regional basis in 2011. The *VIS Regulation* follows

³³ Those circumstances would have to last more than two months and be compared to the same period in the previous year or to the period before the implementation of the exemption.

³⁴ *Council Decision of 8 June 2004 establishing the Visa Information System (VIS) (2004/512/EC)*.

³⁵ *Regulation (EC) No 767/2008 of the European Parliament and of the Council of 9 July 2008 concerning the Visa Information System (VIS) and the exchange of data between Member States on short-stay visas*.

the previously agreed goals and among VIS' purposes in art. 2 points out: facilitation of checks at the external borders and inside EU territory, identification of illegal immigrants and prevention of threats to internal security (European Union, 2008, p. 63).

As Balzacq (2008, p. 89) argues:

“[c]ompared to the SIS and Eurodac, counter-terrorism has not fundamentally remodelled the VIS; instead, in many ways it has been a defining ingredient of VIS”.

Indeed, providing Europol with access to VIS was already stated in the *Proposal for Council Decision* from 2005³⁶. According to art. 3 of *VIS Regulation* on availability of data for prevention, detection and investigation of terrorist offences and other serious criminal offences; designated authorities of Member States may access the VIS. It applies also to Europol which can do it but “within the limits of its mandate and when necessary for the performance of its tasks” (European Union, 2008). This, as Balzacq (2008, p. 89) points out, led the EDPS “to urge EU Member States to keep in mind that the VIS was primarily developed in ‘view of the European visa policy, not as a law enforcement tool’”.

Further, art. 5 of the *VIS Regulation* indicated that the VIS would record alphanumeric data, photographs, fingerprints and links to other applications. According to art. 7, the usage of VIS will not:

“discriminate against applicants and visa holders on grounds of sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation and that it fully respects the human dignity and the integrity of the applicant or of the visa holder” (European Union, 2008, p. 66).

Nevertheless, as Guild and Bigo (2002, p. 127) point out, it may apply to persons:

“who have done nothing wrong (...) for the fact that they have been born in a particular country, are categorized as being ‘more’ or ‘less’ likely to be a risk”.

³⁶ *Proposal for a Council Decision concerning access for consultation of the Visa Information System (VIS) by the authorities of Member States responsible for internal security and by Europol for the purposes of the prevention, detection and investigation of terrorist offences and of other serious criminal offences, COM (2005) 600 final.*

A few years later, in the *Communication on Stronger and Smarter Information Systems for Borders and Security* (2016), it was announced that improvement to VIS' functioning needs to be examined. The aspects considered to be improvements focused principally on strengthening of usage of biometric data:

- “- improving the quality of facial images to enable biometric matching;
 - using the biometric data of visa applicants to search in the future Automated Fingerprint Identification System to be developed for the SIS;
 - reducing the age limit for collecting fingerprints of children between the age of 6 and 12 years old, whilst providing for robust Fundamental Rights safeguards and 20 protection measures;
 - facilitating the checking of Interpol's SLTD database during a visa application”
- (European Commission, 2016b, p. 9).

The usage of biometric data and its further improvement in VIS, but also in other systems such as SIS, creates what Bonditti calls a 'traceability' defined as “the capacity of security agencies to recreate geographical, social and digital trajectories of individuals, goods, capital and data” (cited in Scheel, 2013, p. 595). This 'traceability' leads then to the creation of what Bigo (2011, p. 31), Lyon (cited in Scheel, 2013) as well as Haggerty and Ericson (2000) refer to as 'data doubles' that are “information collected in the database systems which is seen as representing their [individual's] 'real' identity, the truth of their body”. In this way, the subject of the control is not the actual person but the generated data double.

In October 2016, so after VIS has been gradually rolled out in all Member States, the European Commission published the REFIT Evaluation of Regulation 767/2008. This document also repeated the VIS' importance for countering terrorism by stating:

“The VIS specifically contributes to safeguarding the Member States' internal security and combating terrorism by improving how visa applications are assessed. This includes improving consultation between central authorities and improving the verification and identification of applicants at consulates and border crossing points. Safeguarding Member States' internal security and combating terrorism constitutes a general objective and basic criterion for the common visa policy”

(European Commission, 2016d, p. 3).

The document presented an evaluation that was conducted in 2015 and concerned the performance of the system, its implementation, reaching the policy objectives and its fit-for-

purpose³⁷ (European Commission, 2016e). While the general conclusion was prevalingly positive, as, for example, the introduction of VIS led to “an increase in detections of false visas at the border” and as a deterrent for using them (European Commission, 2016d, p. 5), in terms of prevention of threats to internal security, two Member States found VIS’ impact limited and less than half of them considered it as positive. Nevertheless, the document while pointing out the statistically limited use of VIS for that purpose, claimed that:

“the high level of satisfaction and real or expected benefits from such access suggest that the number of users and requests will increase in the future” (European Commission, 2016d, p. 8).

The usage of biometric checks was described as a “cornerstone” for identification and verification (European Commission, 2016d, p. 7). Moreover, it was indicated that law enforcement authorities could be allowed to conduct searches using latent fingerprints and photographs and that another development could be the interconnectivity with SIS, Eurodac, EES and Stolen and Lost Travel Documents databases (European Commission, 2016e).

The repeated need to extend the scope of VIS led to launching of a public consultation on including data on long stays visas and residence documents in the system³⁸. The report from the study was included in the Impact Assessment. This document referred to some problems with VIS that were mentioned in the REFIT Evaluation. This included the lack of sufficient information on long-stay visas and residence documents, of fingerprinting data allowing to identify minors and travel documents as evidence in return proceedings (European Commission, 2018a). Another mentioned problem was the lack of sufficient checks on migration and security risks when processing visa applications due to a lack of appropriate interoperability.

As a result, later in May 2019, two Regulations establishing the interoperability between the EU large scale information systems³⁹ were adopted: *Regulation 2019/817* and *2019/818*. Its establishment has raised some questions about its functioning. Some possible issues were

³⁷ The evaluation was based on the documentary review, EU survey sent to the Member States (19 responses) and EU-LISA as well as on feedback from EU-LISA Management Board, VIS Advisory Group, working groups in Council and Schengen evaluations.

³⁸ The consultation took place from 17.08.2017 to 09.02.2018. It attracted 28 responses (19 from individuals and 9 in professional capacity).

³⁹ SIS, Eurodac, VIS, EES, ETIAS, European Criminal Records Information System for third-country nationals, Stolen and Lost Travel Documents database and parts of Europol’s database.

pointed out in the EDPS' opinion on these regulations' proposals. First of all, one of the concerns regarded joint addressing of security and migration:

“the EDPS is concerned that repeatedly referring to migration, internal security and fight against terrorism almost interchangeably brings the risk of blurring the boundaries between migration management and fight against crime and terrorism. It may even contribute to creating assimilation between terrorists, criminals and foreigners.” (EDPS, 2018, p. 9).

Thus, this EDPS' opinion reflects the assumption motivating the research question of this thesis that focuses on the connection between migration, terrorism and border control as well as on securitisation of migration as a result of this connection. The EDPS further argued that providing law enforcement authorities access to EU systems that have been established for different purposes should not take place systematically “but only in specific circumstances, on a case by case basis and under strict conditions” (EDPS, 2018, p. 15). Although the need to provide such access to law enforcement authorities is understandable, doing it according to the EDPS “is far from insignificant from a fundamental rights perspective” and “[r]outine access would represent a violation of the principle of purpose limitation” (EDPS, 2018, p. 17). The EDPS further pointed out the increase in risks of abuses in the case of central databases (contrary to decentralised one) and argued that “[a]ssessing the precise implications for privacy and data protection of a system with so many ‘moving parts’ is all but impossible” and that the proposals add complexity to existing systems that “are still in the pipeline” (EDPS, 2018, pp. 9-11). According to EDPS (2018, p. 10), a large-scale interoperable information system would have “a huge impact on the fundamental rights of the individuals” and “change the way legal principles have been interpreted in this area so far and would as such mark a ‘point of no return’”.

The issues around interoperability of databases were also pointed out by Brouwer (2019, p. 1) who argues that the adopted instruments “fail to meet the standards defined by the CJEU and the ECtHR on the basis of the rights to privacy and data protection” due to the complexity of rules and the fact they mainly affect third-country nationals. Brouwer (2019) refers to two cases where mistakes in the functioning of the EU database led to the violation of human rights and claims that incorrect information in one of the systems due to interoperability can be multiplied in other databases, further escalating the problem. Invoking the example of the case *S. and Marper v. UK*, where the ECtHR “warned against

risk of stigmatisation”, Brouwer (2019, p 5) points out the problem of third-country nationals being the main subject of the control through large databases:

“[t]he fact that interoperability and the centralization of data bases mainly affect third-country nationals (or EU citizens with a third-country nationality as in ECRIS-TCN) fails to respect the fundamental right to non-discrimination” (Brouwer, 2019).

At last, Brouwer (2019) points out the “problem of transparency of powers” as the number of instruments dealing with data processing and complexity of rules can make it extremely difficult for the data subject to assert its rights in the field of correction, deletion of data as well as judicial protection.

As argued by Balzacq (2008), visa policy as such is a securitising tool and VIS, being the database that allows the exchange of visa information, is it as well. Nevertheless, since Balzacq’s analysis, VIS changed. While since the beginning it was to play an important part in counter-terrorism and contributed to the creation of the connection between migration and terrorism, the interoperability further strengthened the perception of migrants as a threat. The adoption of the interoperability regulations, apart from the above-mentioned concerns regarding its impact on human rights and stigmatisation of migration, indicates the importance of quick and easy access to these data in order to provide a high level of security in face of the threat posed by migrants.

5.3. Eurodac

Another database system, that shares some similarities with SIS, is Eurodac – Automated Fingerprint Identification System which as SIS operates on a ‘hit’ or ‘no-hit’ model. Eurodac is the last tool presented in this chapter that has already been addressed by (Balzacq, 2008). This section presents the evolution of Eurodac with special attention on the widening of access to this database, considering concerns raised over this change by the EDPS and UNHCR.

Eurodac was established by *Regulation 2725/2000* in 2000 but became operational in 2003. According to art. 1 of this *Regulation*, it aims to facilitate establishing which state is

responsible for an asylum application and therefore serves the purpose of applying the *Dublin Convention* (European Communities, 2000, p. 2). As Brouwer (2008) points out, the reason why such a system was needed, was the Member States' claim that asylum seekers have been often destroying their documents upon their arrival to the EU, which made their identification and establishment if they have already applied for asylum in different places problematic. Eurodac, being a database that includes the fingerprints of asylum seekers, was to prevent the asylum seekers from applying for asylum in more than one country, which is known as 'asylum shopping'. Further, as Brouwer (2008) states, the application of the *Dublin Convention* would also ensure that there is a Member State that examines the asylum application to prevent what is called a 'refugee in orbit'⁴⁰. However, Huysmans (2000, p. 756) points out that, although the *Dublin Convention* allows for a quicker procedure and can shorten the time asylum seekers spend in the detention centre, it is "heavily overdetermined by a policy aimed at reducing the number of applications". By not allowing asylum seekers to apply in different countries, the *Dublin Convention* diminishes their chances of being granted asylum and this "restrictive and control-oriented basis of the Dublin Convention is further highlighted by the development of Eurodac" (Huysmans, 2000, p. 756).

The establishment of Eurodac was preceded by some discussions around its controversial aspects, including the categories of persons whose fingerprints should be stored, as well as their age. It was decided that the fingerprints will be collected from every person over 14 years old however not only from those who apply for asylum (category 1) as was planned at first. The fingerprints are collected also from third-country nationals who have been illegally crossing the border (category 2)⁴¹ and from third-country nationals who have been illegal residents in the EU Member States (category 3)⁴². Because of these two different categories (2 and 3), according to Balzacq (2008, p. 87), Eurodac is an example of the impact of 'function creep', that is, of usage of a tool for purposes different to those planned at first.

What is interesting, based on the number of illegal border crossings for the second and third categories, Balzacq (2008) observes a reluctance of the Member States to use Eurodac for this purpose and suggests that the reason behind it is the fear that if the illegal immigrants

⁴⁰ According to UNHCR, it is a situation when a refugee was not returned to the country of origin but neither was granted asylum. While there is no member state willing to examine the application, the person is moved from one country to another (see European Commission, 2021).

⁴¹ The data should be stored for only two years for the purpose of comparison with data on asylum applications only.

⁴² The data should be compared with data on asylum applications only and should not be stored.

will be caught in another country, due to the entry in Eurodac, they will be returned to the Member State that first fingerprinted them. The low usage of Eurodac was also recognised by the European Commission which, however, referred to the need for widening of access to Eurodac to include internal security authorities because it is “considered by the law enforcement community to be a serious gap in the identification of suspected perpetrators of a serious crime” (European Commission, 2005, p. 6; Brouwer, 2008, p. 13). Although when asked for advice on the establishment of Eurodac (in 1993), the Legal Service (cited in Brouwer, 2008, p. 119) stated that Eurodac should not be used for different purposes, including, “starting criminal investigations against asylum seekers”, the need of widening of Eurodac’s scope for the purpose of internal security was addressed in many documents. According to Balzacq (2008, p. 88), such addition of enforcement authorities’ access to it would change it from a control tool to an investigating tool and “[c]onsequently, asylum, illegal migration and terrorist offences will then become somewhat ‘logically related’ items”. Nonetheless, the law enforcement authorities were given access to Eurodac in 2013⁴³.

The proposal for this Regulation met with concerns raised by the UNHCR, EDPS and the European Parliament (which eventually changed its position) as well as some scholars. First of all, the UNHCR pointed out that the specification of granting access should be stricter than just for purpose of the “prevention, detection and investigation of terrorist offences and other serious criminal offences” (UNHCR, 2012, p. 9). It was argued that the lack of restricting it just to the suspects can lead to implicating innocent persons (UNHCR, 2012). As Roots (2015, p. 120) points out, this claim was partially taken into account and as a result, art. 20 of *the Regulation 603/2013* grants access to designated authorities when:

- “(a) the comparison is necessary for the purpose of the prevention, detection or investigation of terrorist offences or of other serious criminal offences, which means that there is an overriding public security concern which makes the searching of the database proportionate;
- (b) the comparison is necessary in a specific case (i.e. systematic comparisons shall not be carried out); and
- (c) there are reasonable grounds to consider that the comparison will substantially contribute to the prevention, detection or investigation of any of the

⁴³ Regulation 603/2013 entered into force in 2015.

criminal offences in question. Such reasonable grounds exist in particular where there is a substantiated suspicion that the suspect, perpetrator or victim of a terrorist offence or other serious criminal offence falls in a category covered by this Regulation” (European Union, 2013c, pp. 14-15).

Further, Roots (2015) points out how the European Commission claimed the need to widen the access to Eurodac. In the *Impact Assessment* (2009) it was stated that:

“Even though the potential number of asylum seekers that might be involved in cross-border terrorist offences or other serious criminal offences might not be very large, the mere fact of the gravity of such offences and their impact on society and every day life should provide adequate justification for action on an EU level” (European Commission, 2009, p. 13).

The *Impact Assessment* provided statistics from four Member States to claim the importance of the access for law enforcement authorities to Eurodac as, for example, in Austria, more than 19% of the crime suspects in 2006 were asylum seekers (see European Commission, 2009). These statistics and evidence provided by the European Commission have been, however, seen as unreliable by the EDPS (2012; Roots, 2015). The argument about the structural and verification gap that was put forward by the European Commission (2009) also met with reluctance as the EDPS (2012) indicated that an evaluation of existing tools and the impact of their full implementation should be conducted before granting access to law enforcement authorities. It was the EDPS’ (2012, p. 8) belief that “the existing instruments may already be effective and sufficient”. With this opinion and the lack of sufficient proof of the existence of a link between asylum seekers and criminality agrees also Vavoula (2015, p. 271) who claims that due to “fragmentary information, no definite conclusions can be drawn as to whether or not access to Eurodac is necessary for fighting terrorism and serious crime”.

Among other concerns pointed out by Roots (2015), both UNHCR and EDPS feared for the potential stigmatization of asylum seekers. The UNHCR (2012) raised that persons seeking protection are especially vulnerable and providing the law enforcement authorities with access to their fingerprints data exposes them to more investigations. Even when the person is found innocent, the fact of being investigated can be misunderstood and create a link between asylum seekers and crimes that may impact their chances for integration into society

as well as increase xenophobia and racism (UNHCR, 2012). The vulnerability and precarious position of asylum seekers was also pointed out by the EDPS (2012). It was raised that processing fingerprints of asylum seekers only (and not of other individuals) can “therefore lead to a potential discrimination of asylum seekers, which, without justification, cannot be seen as a proportionate measure” (EDPS, 2012, p. 9). According to Vavoula (2015, p. 261):

“[t]he mere existence of the possibility of law enforcement authorities and Europol to have access to Eurodac data indicates that asylum seekers are considered as de facto persons suspected of criminality”.

Providing access to Eurodac for law enforcement authorities is also again linked to the function creep that has been previously pointed out by Balzacq (2008) in relation to fingerprinting illegal immigrants. This time, it was pointed out by the EDPS (2012) who expressed concerns about reusing already obtained data for other purposes. The erosion of the purpose of limitation, which is a core principle of data protection law, was also argued by Queiroz (2019, p. 163) who points out that, according to the *Data Protection Convention*, it is required that the data is obtained and processed lawfully, stored for a specified time, used only for the purpose it has been obtained for and not kept for longer than necessary for that purpose.

Nevertheless, this extension of the scope was not to end in 2013 as in 2016, just one year after the Regulation from 2013 entered into force, the European Commission prepared another proposal. As Queiroz (2019) points out, this new proposal was a consequence of the events of 2015. In the face of the record flow of refugees, the Member States struggled with fingerprinting⁴⁴, which prompted the need for another revision of Eurodac (European Commission, 2016d). The analysis of the number of fingerprints that were inserted to Eurodac in 2015 also brought some interesting differences between countries, which were pointed out by Ferraris (2017): some countries, such as Germany and Sweden, recorded a high number of asylum seekers, while half of those registered by Hungary were irregular migrants. Whereas a person is assigned to the category 1 or 2, it is a decision of a border guard thus the differences in numbers on the same routes (Western Balkan route for Hungary

⁴⁴ Countries like for example Greece or Italy were allowing arriving migrants to move to other countries without being registered (Ferraris, 2017).

and Germany) are claimed by Ferraris (2017) to be an indication of “a wide margin of discretion based on each state’s attitude towards migration”.

The new proposal to review Eurodac from 2016 was part of the package of measures to reform the Common European Asylum System. It included another extension of the scope of the *Regulation* by adding a new purpose:

“[to] assist with the control of illegal immigration to and secondary movements within the Union and with the identification of illegally staying third-country nationals for determining the appropriate measures to be taken by Member States, including removal and repatriation of persons residing without authorisation” (European Commission, 2016c, p. 34).

The proposal consisted of various amendments. Among others, it was to: add the obligation of taking a facial image – new biometric identifier (art.2); allow storing of personal information such, for example, name and age (art. 12, 13, 14); allow comparison of facial images apart from fingerprints (art. 2, 15, 16); lower the age of taking fingerprint to 6 years old (art. 10,13, 14); allow storing of data of the third category (art. 15, 16); sharing information from Eurodac with third countries (art. 18) and allow Europol and designated authorities comparison of fingerprints and facial images of all three categories (art. 20) (see European Commission, 2016c).

As previously, the EDPS, while reviewing this proposal, repeated its concerns over the extension of the purpose of the database and not only in relation to the limitation principle but also to the proportionality (EDPS, 2016). The EDPS referred also to the lack of the appropriate assessment of the need and risks in case of the collection of facial data and fingerprinting minors under 14 years old and to the difference in time of law enforcement authorities’ access to the data: according to art. 19 of the proposal, while for asylum seekers who have obtained international protection data is blocked after three years, it would be still accessible for other categories (those who did not apply or have not been granted the status of a refugee). This proposal would suggest that those without the refugee status, including those with a residence permit, pose a higher threat (are more subject of interest for law enforcement authorities) than those who have obtained international protection.

An opinion on this proposal was also given by the UNHCR (2017) which, among others, pointed out the problem of the lack of precise specification for the usage of sanctions for

non-compliance with the requirement of providing the fingerprints and facial image. According to the UNHCR (2017), the proposal should remove the margin of discretion that was left to the Member States, advise the usage of detention as a measure of last resort and do not allow its usage for minors. It further raised again the concern over the quality and accuracy of the data and what comes with it, the errors of incorrect ‘hits’.

While this proposal has not been adopted as the European Commission announced in its Working Programme preparation of the New Pact on Migration and Asylum⁴⁵ (presented in September 2020) which included a revised proposal for the Eurodac Regulation, it indicates the changing expectations from Eurodac. From a database planned to be used in the management of asylum applications, it is to become a database filled with different types of biometric data used for combating illegal immigration, counter-terrorism and other serious crimes. With concerns over a lack of assessments and the need for providing Europol with access to this tool, it strongly contributes to the connection between migration and terrorism. This access directly indicates the assumption that migrants may be terrorists and criminals. As in the case of VIS, the repeated attention to adding new data, despite doubts raised by the EDPS and UNHCR, stresses not only the role Eurodac is expected to play in providing security but also the perceived seriousness of the threat it is to address, which is migration.

5.4. European Surveillance System (Eurosur)

The last tool of this migration surveillance system that is analysed in this chapter is Eurosur, the European Surveillance System. While the previous tools were aimed at the microscopical extension of border guards' vision (usage of biometrics to identify migrants and detect forged documents), this one does it telescopically by allowing the detection of persons and objects at distance from the border (Follis, 2017). Although Eurosur had been mentioned already in 2006⁴⁶, it was established to improve the management of Europe's external borders in 2013 and became operational the same year. It is one of two (next to Jora) migration mapping

⁴⁵ As the presentation of the *New Pact on Migration and Asylum* goes beyond the time frame adopted for this thesis, it will not be analysed here.

⁴⁶ *Communication from the European Commission on 'Reinforcing the management of the European Union's southern maritime borders'*.

software systems that are managed by Frontex. This section presents two ways of looking at Eurosur: its role presented in the establishing *Regulation* (2013) and how it is used in practice. It also addresses the changes made to Eurosur in 2019.

Eurosur is a system of information exchange between the Member States and Frontex that is to improve situational awareness and increase reaction capability at external borders. According to *Regulation 1052/2013*, it has two components: national and European. In each of the Member States, there is a National Coordination Centre (NCC) that ensures the exchange of information between national authorities responsible for external border surveillance, coordination centres, search and rescue (SAR), law enforcement, asylum and immigration authorities (art. 4). It is also a contact point for Frontex and other NCCs (European Union, 2013b). NCCs provide Frontex with their national situational pictures (NSP) that are then used by Frontex to prepare a European situational picture (ESP) and a common pre-frontier intelligence picture. Apart from the European situational picture, Frontex is also responsible for the establishment and maintenance of the communication network and the application of surveillance tools (European Union, 2013b).

In order to establish the NSP, NCCs use the information from the national border surveillance, stationary and mobile sensors, patrols, monitoring missions, ship reporting systems as well as from other relevant national authorities and systems, coordination centres, relevant European and international organisations, other NCCs, Frontex and authorities of third countries (based on bilateral or multilateral agreements and networks) (art. 9). The NSP as well as the ESP consists of three layers: an event layer, an operational layer and an analysis layer, where each of them is divided into further sub-layers (art. 8). For example, the event layer of NSP consists of sub-layers on unauthorised crossings, cross-border crime, crisis situations and other events with information on suspected persons, vehicles, vessels in proximity to the external border or that have an impact on the control of the external borders. Further, according to art. 12, Frontex, when requested, provides NCCs with information obtained from monitoring of designated third-country ports and coast, tracking vessels or other crafts, monitoring of designated areas in the maritime domain, environmental assessment and monitoring of designated pre-frontier areas at the external borders. Frontex uses also ship reporting systems, satellite imagery and sensors mounted on vehicles, vessels and other crafts.

Both NCCs and Frontex operate twenty-four hours a day and seven days a week to provide a near-real-time situation picture not only of the external borders of the EU but also beyond them what is provided by the pre-frontier picture. What is significant, art. 12 of the *Regulation* does not specify the external limits of this pre-frontier area or of what Pugliese (2013) refers to as an ‘externalised externality’. This surveillance system recalls Foucault’s vision of the panopticon⁴⁷ or rather Bigo’s (2008) ban-opticon where the surveillance is not directed at everybody but at a certain minority group. However, as Follis argues, Eurosur can actually represent the opposite of the panopticon, that is the oligopticon, so an “extremely narrow views of the (connected) whole” (Latour cited in Follis, 2017, p. 1050). Although such an observation can be very detailed, it may be “susceptible to blinding, distortion, and misinterpretation” (Follis, 2017, p. 1050). The unmanned aerial vehicles (UAVs), commonly known as drones, that are used in European surveillance, according to Gregory (cited in Follis, 2017, p. 1015) offer “the illusion of fully transparent view”. Gregory (cited in Follis, 2017, p. 1015) in his work on the usage of drones in Afghanistan, argues for engaging with ‘scopic regimes’ instead of treating the vision as “purely biological capacity”, pointing out the cultural, social, historical and political constructs that will impact the decision of personnel operating the drone. Drawing on Gregory’s arguments, Follis (2013, p. 1016) links them to Feldman’s (2013) claims about the “structural marginalization of migrants” that are anonymised and treated as statistics and what Chamayou (2012) refers to as ‘hunting illegals’. Follis (2017, p. 1015) points out the two images that can be produced by a drone: “an overloaded boat at risk of sinking and an anonymous mass that must be stopped from crossing the border”.

As stated in Chapter 3, the main purpose of Eurosur is to improve situational awareness and reaction capability in order to achieve three things (art. 1 of the *Regulation 1052/2013*). Firstly, to monitor, detect, identify, track, prevent and intercept unauthorised border crossing. Secondly, to detect, prevent and combat illegal immigration and cross border crime. Finally, thirdly, to contribute to saving the lives of migrants. All of these goals have met with criticism in the academic literature. First, prevention and interception can possibly lead to violation of the rights of migrants and refugees (Jeandesboz, 2011; Pugliese, 2013; Amnesty International, 2014; Follis, 2017). The actions aimed at the prevention of

⁴⁷ In *Discipline and Punish* (1975), Michel Foucault used a metaphor of panopticon that is an architectural design of prison put forth by Jeremy Bentham. The design of panopticon allowed constant surveillance of prisoners without them knowing about it. Foucault used it to explore formation of disciplinary society and power-knowledge concept.

migration, that is at stopping the migrants before they arrive in the EU, can violate the principle of non-refoulement. As Carrera (cited in Pugliese, 2013, p. 588) argues:

“preventative action ignores the fact that the targeted individual may not be in fact an ‘illegal’ but a potential asylum seeker or refugee. The process of externalisation implies the prevention of the ‘would-be-irregular immigrant’ or ‘would-be asylum seeker’ from reaching the EU border and thereby from moving into any of these juridical categories. As a general rule, nobody should fall within the category of irregularity before entering EU territory”.

Another problem linked to the prevention of irregular crossings and illegal immigration was pointed out by Spijkerboer (2007) who directs the attention to the human costs of security practices. The number of fatalities according to Spijkerboer (2007) can be linked to the tightening of border controls: in the period between 1993 and 2006, the number of deaths at the European borders increased and even though there will be a range of factors that impacted these numbers, the fact that this increase occurred while the border controls have been strengthened is significant. What Spijkerboer (2007), as well as other scholars (Jeandesboz, 2011; Pugliese, 2013; Bellanova and Duez, 2016; Jumbert, 2018), argues is that the intensification of border controls does not lead to the decrease of irregular migration but to a change of routes they use, routes that are more dangerous and expose migrants to greater risks and deaths. Eurosur is an important element of border control thus contributing to this situation. Further, Jeandesbo (2011) gives an example of the effect of the usage of Spanish SIVE⁴⁸ (Sistema Integrado de Vigilancia Exterior) – the surveillance in the strait of Gibraltar indeed stopped the migration at this particular route but did not end the migration flow. Instead, it led to a change of the migratory route, to, for example, the route through the Canary Islands. Spijkerboer (2007) also points out the case of the usage of the sea patrols between Albania and Apulia in the 1990s when migrants, in order to decrease the chances of interception, were departing in winter, which significantly increased the number of accidents.

According to Spijkerboer (2007), these fatalities are a foreseeable consequence of the states’ border control policy which triggers Member States’ positive obligation to adopt measures to safeguard migrants’ lives. The irony is that the very same tool, Eurosur which in this case

⁴⁸ The implementation of SIVE along the coast of Andalusia and its ‘success’ in stopping migration flow in the strait of Gibraltar gave a push towards usage of surveillance, and SIVE-like systems (Bellanova and Duez, 2016).

is the European response to this obligation, is accused by academics and NGO's/independent watchdogs of not fulfilling its aim and of possibly contributing to the loss of lives. The near-real-time picture should provide the Member States' authorities with reliable information about the boats in distress allowing on-time SAR operations. However, as presented above, it is claimed that the existence of surveillance which is to help in rescuing migrants, pushes them to choose more dangerous routes. This is because the usage of surveillance leads to the creation of a new spatial border (Tazzioli, 2018). Being detected and rescued by coast guards does not necessarily mean entering EU territory. As Tazzioli (2018, p. 284) points out, it can either mean "being pushed back on the high sea, being saved and ferried to Europe, or being rescued and taken back to Libya", depending on where they are detected. In this context, usage of the surveillance of the pre-frontier area can be used to keep migrants away from the border, away from the area where the EU would have legal responsibilities towards them (Follis, 2017). Further, Heller and Jones (2014) argue that there are various examples of cases when the surveillance and detection did not ensure the rescue. They refer to the death of 63 migrants (out of 72) who drifted at sea for 15 days. Despite sending calls for help, they have been ignored by an aeroplane, helicopters and military and fishing vessels. In this context, Webber (2014, p. 4) indicates a few reasons for this: apart from blaming Frontex, he also points out:

"arguments amongst member states over responsibility for rescue, their refusal to assist boats in distress or to allow disembarkation, coastguards' deliberate scuppering of the small boats, and the criminalisation of rescue under the Facilitation Directive".

Besides these risks of deaths, accidents and violations of the rights of migrants, there have been doubts raised also regarding Eurosur's actual ability to save lives and the importance of this aim. Rijpma and Vermeulen (2015, p. 467) refer in this context to a statement made by the Frontex Director (Gil-Arias) who himself admitted the lack of the "technological capacity to detect small boats carrying migrants". Further, as pointed out in Chapter 4, claims have been made about the secondary importance of the humanitarian aim (Rijpma and Vermeulen, 2015). Considering these observations, Eurosur is an example of a tool where the discourse used by the EU does not exactly reflect the way in which the system is functioning. Whereas the EU framed it as a humanitarian response to events, such as the tragic incident at Lampedusa in 2013, and as rather a technical measure (Jeandesboz, 2011;

Rijpma and Vermeulen, 2015), there are various questions about the real aim and reasons for its implementation. Boin et al. (cited in Walters, 2017, p. 807) note that:

“Humanitarian aid communities, disaster relief communities, and border security communities each have a different notion of when mobilisation is important and what constitutes a crisis with European dimensions. It is not difficult to foresee EUROSUR being used by some countries to frame incidents in certain ways, so as to generate or suppress a coordinated response”.

According to Tazzioli (2018, p. 282), “[h]uman security is (...) ultimately conceived in terms of deterrence”. This observation reflects the reading of Eurosur’s aims presented in Chapter 4: Eurosur contributes to saving migrants’ lives but not necessarily by SAR operations but by stopping migrants from coming to the EU – through the detection and prevention of unauthorised border crossing and cross-border crime. Fear of using Eurosur primarily for the purpose of stopping migrants from reaching EU territory was also voiced by the Amnesty International (2014). When analysing the reports on Eurosur’s functioning, the answer to the question of Eurosur’s contribution to saving lives neither is obvious. Whereas Frontex (2015) in its report on the functioning of Eurosur claimed that the Eurosur Fusion Services have contributed to saving lives on several occasions, for example, rescue of 38 migrants in September 2014, the European Union Agency for Fundamental Rights (FRA, 2018, p. 8) noted that:

“[a]s Eurosur is only one of the instruments and tools aimed at enhancing search and rescue at sea, it is difficult to assess the degree to which Eurosur helped saving lives at sea”.

It was also pointed out that Eurosur should improve the capturing of SAR operations by tagging them as such instead of marking them as ‘illegal border crossing’ (FRA, 2018).

Considering the above, it can be argued that the primary object of Eurosur is to stop irregular migration to Europe and investigate cross-border crimes. Some scholars have already claimed that Eurosur, surveillance, extra-territorialisation of border control and prevention of irregular migration lead to the criminalisation of migration (Martin, 2011; Jumbert, 2018) and also to the militarisation of the border. Eurosur, in addition to its migration management function, also assists law enforcement purposes, including counter-terrorism. Countering

terrorism was one of the serious cross-border crimes that were pointed out as the Commission's objectives in the *Proposal for Eurosur Regulation*:

"the aim of EUROSUR is to (...) increase internal security by preventing cross-border crime such as terrorism, trafficking in human beings, smuggling of weapons and drugs, etc." (European Commission, 2011b, p. 26).

In terms of the militarisation of the border, three arguments should be noted. First, Follis (2017) points out that the vision Eurosur is offering used to be required for military purposes. Second, Vaughan-Williams (2015, ch. 2, p. 16) notes that border security practices increasingly rely on "military-style aerial surveillance techniques" such as drones, satellites, GPS that are used in the Eurosur system. Third, Vaughan-Williams (2015), as well as Pugliese (2013), points out the style of the terminology used to describe the functioning of the system (addressed in Chapter 4). Forth, as Jeandesboz (2011) notes, the activities that are carried out in the name of Eurosur often involve agents from the defence and security industries such as Spanish Guardia Civil, which is military in nature. Both criminalisation of migration and criminalisation of the border contribute to the securitisation of migration. Eurosur, despite the humanitarian discourse on it, is a security-driven tool that through the way it functions and the glossary it uses, strengthens the perception of migration as a threat.

Yet, quite a different interpretation of Eurosur's goals was proposed by Tazzioli (2018, p. 274) who claims that the real-time detection of migration is not the actual purpose of Eurosur:

"migration mapping software, such as Eurosur and Jora, is not devised for border surveillance purposes, nor for acting on the spot, but for tracking migration movements, collecting and archiving information in order to craft future-oriented migration risk scenarios".

Tazzioli (2018), based on conducted interviews and direct observations of the functioning of Eurosur and Jora in the control rooms, claims that the actual aim of Eurosur is to provide migration risk analyses that strengthen the states' readiness to react to potential border pressure and threats. One of the reasons for this is the delay that occurs between the detection of migrants and the time when the event appears on the map: it can take up to 24 hours (Tazzioli and Walters, 2016). The event is represented on the map as an interactive coloured

dot that contains the information about that event, regardless of whether it was an irregular crossing or cross-border crime (Tazzioli, 2018). This information is then used to establish the risk level for the frontier close to which that event occurred (Tazzioli, 2018). However, it is not the size of the event that determines the colour of the border but, as Tazzioli and Walters (2016) point out, its impact, that is the cost and the extent of forces that were required to manage it. The real-time maps that allow quick response to an event are used by the national navies and the coast guards who then send this data to Eurosur, not to start a rescue operation but to represent the event on the map and update the impact level for the frontier (Tazzioli, 2018). Upon conducting interviews, Tazzioli (2018) points out that Eurosur is not used by the Italian Navy for SARs operations or for detecting vessels. It rather serves the purpose of “building an archive that can then be accessed in the future to address changes in migration trends” (Tazzioli, 2018, p. 281).

It can therefore be seen that the SAR operations, as well as detection and prevention of irregular crossing or cross-border crime, can take place because of the increasing surveillance, but are not a direct effect of the Eurosur system. Further, Eurosur, as argued by Tazzioli (2018), is not interested in migrants per se, but in the ‘risk’ they bring. The system is not about responding to a particular real-time security threat (that either endangers migrant security, like a vessel in distress, or EU security, like cross-border crime) but it is to set out “a space of governmentality that assesses migration impact factors and is simultaneously equipped for tackling migration as a crisis” (Tazzioli, 2018, p. 283). Thus, it is a future-oriented, pre-emptive tool that is to assess the degree of governability of migration (Tazzioli, 2018).

Even though Tazzioli (2018, p. 283) argues that those events are not visualised in terms of ‘threat’ or ‘migrant invasion’, she notes that “migration is assumed as a factor of crisis”. It is therefore perceived as a possible threat that can put the EU borders in danger if the migration flow can not be effectively managed because irregular and uncontrolled migration is seen as a threat on various levels. In this context, Eurosur is producing knowledge and is determining what constitutes a risk and a threat to the European borders. As Bigo (2008) notes, through the usage of statistics, collecting and categorising the data, the security professionals establish the ‘field’ of security in which they compete with each other for a monopoly of establishing the legitimate knowledge of what is a ‘real’ threat. Bigo's (2002, p. 85) understanding of the relationship between security professionals and security can be illustrated by his paraphrase of Wendt’s famous claim: “security is what the professionals of

unease management make of it”. Further, the knowledge production was by Vaughan-Williams (2015, ch.2, pp. 33-34) described as being central to the biopolitical⁴⁹ notion of security:

“[w]hile recognizing that the elimination of risk is impossible, the desire to simulate the effect of maximum security means that biopolitical European border security and migration management has been shaped by diverse attempts to better identify and govern ‘irregular’ populations as quickly and efficiently as possible”.

Apart from the FRA evaluation, in 2018, also the European Commission presented its report on Eurosur. While addressing its’s relevance, the document directly linked it to counter-terrorism policy which is rather an obscure area of Eurosur’s usage:

“The migratory crisis, in particular along the Western Balkan Route in 2015/2016, and the terrorist attacks that took place in Europe are the two main crisis situations that the EU had to face since the adoption of EUROSUR. Both crisis situations clearly demonstrated the need to have a robust and comprehensive information exchange and cooperation framework for the European Border and Coast Guard in place. EUROSUR should be further developed in this regard” (European Commission, 2018b, p. 5).

Further, apart from reassurance about Eurosur’s contribution towards saving migrants’ lives at sea, the European Commission (2018b, p. 8) also argued there that “EUROSUR should evolve from a system to a more general governance framework for information exchange and cooperation”. The document pointed out four areas of enlarging Eurosur’s scope: inclusion of border checks at border crossing points; air border surveillance; cooperation with neighbouring third countries and Integrated Border Management (European Commission, 2018b).

This Report was attached to the Proposal for *Regulation on the European Border and Coast Guard* that addresses the strengthening of Frontex but also refers to Eurosur. Whereas in the

⁴⁹ Vaughan-Williams (2015, ch.2, p. 27) has drawn upon the Foucauldian concept of biopolitics where power is “exercised by caring for and maximizing life”.

Regulation from 2013, Eurosur was established as a common framework for the exchange of information, in the new Regulation 2019/1896 from 2019, it is an integrated framework (art. 18). Although the wording of the Eurosur' purposes was not changed, it does not anymore apply only to external land and sea borders but, as argued in the Report and Proposal, also to border checks at authorised border crossing points and air borders (art. 19). In the preamble to the *Regulation* (2019), it can be read that extending the surveillance to air borders is important as commercial and private planes, as well as remotely controlled aircraft systems are also used for illegal immigration and cross-border crime (European Union, 2019).

Among some of the other changes, there are new components of Eurosur such as a specific situational picture and integrated planning (art. 20). The European Commission will also work on adding another, information layer to the situational pictures. The latter will also contain information on the unauthorised secondary movements, that is the movements of refugees or asylum seekers from the country of arrival to another Member State (art. 24), which implies that they are also relevant for the purpose of risk analysis and it presents them as a potential threat. Further, art. 24.2. can be seen as a response to FRA's report, as it indicates that it should be possible to identify and trace events and operations as well as corresponding analysis of cases when human lives have been at risk in the situational picture. The preamble also referred to the problem of detection of small and unseaworthy vessels and pointed out that Frontex and the Member States should improve their ability to detect them and react (European Union, 2019).

Another record on the goal of saving lives, also in the preamble to the Regulation only, indicated that when an impact level is high or critical due to an increase of illegal immigration, the Member States should consider it in the preparation for the SAR operations. Here, on one hand, the attention is put on the aim of saving lives but on the other hand, the *Regulation* (2019) referred to 'illegal' immigration instead of 'irregular'. Also, a new 'very high' impact level was added to 'low', 'medium' and 'high' (art. 25) which indicates the increase of threat. Moreover, the pre-frontier area picture was included by this *Regulation* in the ESP (European Union, 2019) which stresses the focus on the area beyond the EU border. Also, the list of sources from which Frontex collects the information for the European situational picture was lengthened: among others, immigration liaison officers, as well as the Common Security and Defence Policy missions and operations, were added (art. 26).

The establishment of Eurosur, as well as of previously analysed border control tools, raised concerns of academics in the field of securitisation studies and law as well as of NGOs and independent watchdogs. This section has shown that Eurosur contributes to the criminalisation of migration, militarisation of border and representations of migration as risk, and thus can be considered as a dispositif that presents migration as a threat. An important element in the analysis of Eurosur is the Agency that is responsible for its functioning which is Frontex. The next section presents its cooperation with Europol.

5.5. Frontex and Europol

Despite the reluctance of the Member States to vest competencies in sensitive matters that are closely related to state sovereignty to the EU, several decentralised agencies have been established in the Area of Freedom, Security and Justice, among others: the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (Frontex), European Asylum Support Office (EASO), European Agency for the Operational Management of Large-Scale IT Systems in the AFSJ (EU-LISA) and European Police Office (Europol). This section takes a closer look at two European agencies, Frontex and Europol. Both of them are operational agencies that have been significantly strengthened over time. While Frontex was established in order to enhance the management of external borders and Europol to increase cooperation between enforcement authorities, Frontex is currently expected to contribute to the fight against terrorism and Europol has a unit to fight the smuggling of migrants.

The need for a European agency to ensure the burden-sharing at the external borders was raised already in 1998⁵⁰ and Frontex was established in 2004. As presented in Chapter 3, it is controversial whether the 9/11 attack and the securitisation of migration had an impact on forming of Frontex. Nevertheless, this section does not analyse whether Frontex is a policy output of securitisation of migration but whether the agency contributes to this process, especially through the cooperation with Europol. While so far the attention was put on different tools of migration control as well as on Frontex alone, it is claimed here that

⁵⁰ *The European Parliament's Resolution of 3 April 1998 on the implications of enlargement of the European Union for cooperation in the field of justice and home affairs.* (OJC n° C 138 of 04/05/1998) A4-0107/98.

cooperation between the two agencies can also be considered as a securitising tool. The section starts with a description of both agencies, their competencies, tasks and their evolution in order to establish the connection between them. It is then followed by a discussion of the main criticism they have faced and their contribution to the securitisation of migration. Lastly, the section addresses the cooperation between these two agencies and whether this cooperation contributed to the presentation of migration as a threat.

Between 2004 and 2020, Frontex has gone through several amendments, including a change of the name from the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union, to the European Border and Coast Guard Agency⁵¹. Initially, Frontex was trusted with a rather narrow mandate and was to support the Member States with the control and surveillance of external borders by ensuring coordination of their actions, implementation of adopted measures and providing technical support (European Union, 2004). Among its main tasks specified in art. 2 of the *Regulation 2007/2004*, the following can be distinguished: coordination of operational cooperation, assistance on border guards' training, carrying risks analyses, looking into new relevant research, supporting the Member States in cases of increased need for assistance at the external border as well as supporting joint return operations (European Union, 2004). Already in 2007 another *Regulation 863/2007* establishing a mechanism for the creation of Rapid Border Intervention Teams (RABITs) was adopted and empowered Frontex to deploy RABITs in case of risk of the overwhelming flow of illegal migrants to a member state (European Union, 2007b).

Not long after this, the *Stockholm Programme* (2009) called for reinforcement of Frontex's mandate. As a result, the *Frontex Regulation* was amended and adopted in 2011. *Regulation 1168/2011* strengthened Frontex by among others, allowing it to lease or buy its own equipment (art. 7), giving it a co-leading role for joint operations and pilot projects (art. 3), reinforcing its tasks of risk analysis (assessment of the Member States' capacity to answer the migration flow) (art. 4) and of training (art. 5) and research activities (art. 6). Further, the *Regulation* set up the European Border Guard Teams that should be deployed for the purpose of joint operations, pilot projects and rapid interventions (art. 2) and strengthened provisions for the protection of fundamental rights⁵². Then, in 2013, Frontex was given

⁵¹ Changed in 2016 by Regulation 2016/1624.

⁵² In this matter, it has imposed the development of Fundamental Rights Strategy, setting up a Consultative Forum and designation of Fundamental Rights Officer (art. 26) (European Union, 2011).

another tool, Eurosur, presented in the previous section. After this, in 2015, the EU faced the ‘Migration Crisis’ that shed light on problems in the functioning of the Schengen area and the EU migration policy. One of the EU’s responses to it was to strengthen Frontex again. In this instance, the renamed Frontex was to:

“ensure European integrated border management at the external borders with a view to managing the crossing of the external borders efficiently. This includes addressing migratory challenges and potential future threats at those borders, thereby contributing to addressing serious crime with a cross-border dimension, to ensure a high level of internal security within the Union in full respect for fundamental rights, while safeguarding the free movement of persons within it” (European Union, 2016a, p. 10).

Regulation 2016/1624 directly linked Frontex’s function with providing security. It significantly extended its list of tasks. Among them should be pointed out, for example, monitoring of the external border through liaison officers; the coordination and organisation of joint operations; setting up pools of forced-return monitors, escorts and return specialists; supporting teams at hotspot areas as well as cooperation with Europol and Eurojust (within the respective mandates) to fight organised cross-border crime and terrorism (art. 4) (European Union, 2016a). The last remark about contributing to the fight against terrorism is significant here as it highlights the existence of the link between migration and terrorism. As de Kerchove and Höhn (2020) point out, the detection of suspected foreign terrorist fighters was named an operational objective in most of the Frontex operations.

Nevertheless, it was not the end of reinforcing Frontex. Already in 2019, when, according to Frontex, the number of irregular crossings at Europe’s borders was at its lowest level in 5 years, another Frontex Regulation was adopted (Frontex, 2020). *Regulation 2019/1896* was already mentioned in the previous section as it incorporates and updates the *Eurosur Regulation* from 2013. Apart from the changes in the surveillance system, the most significant reinforcement of Frontex comes from acquiring a ‘standing force’ of 10.000 staff members by 2027. Further, the agency’s mandate on returns of irregular immigrants was also enhanced. Although, according to art. 48, the decision of return is made by the Member State, Frontex has several actions that should take in this context, including “the collection of information necessary for issuing return decisions and the identification of third-country nationals subject to (...)” return-related procedure (European Union, 2019, p. 48). Another

change introduced by *Regulation 2019/1896* is an increase in the number of instances when the Fundamental Rights Officer (FRO) has to be consulted, for example in the context of a pool of forced-return monitors (art. 51). However, as Jones (2019) point out, the proposal for this *Frontex Regulation* was not accompanied by an impact assessment. It was also raised by the EDPS (cited in Jones, 2019) who noted that the lack of impact assessment made it impossible to determine the impact on fundamental rights this *Regulation* has.

As can be seen, Frontex has been growing at an impressive pace in many ways: in terms of competencies but also budget. In the beginning, Frontex started with a budget of EUR 6 million in 2005, in 2011 it was already EUR 118 million and in 2016 EUR 254 million (Frontex, 2021). This growth could not take place without serious scrutiny and thus Frontex has been the subject of many analyses and criticisms from academia, NGOs and independent watchdogs. As the list is long, only some points that have been raised in academic literature and reports are presented here. First of all, drawing on Balzacq's (2008) understanding of securitisation through practices, Léonard (2010a) analysed Frontex's tasks in 2010⁵³. While Neal (2009, p. 347) argues that Frontex day to day activities are “the opposite of securitization or exceptionalism” because instead of institutionalisation of exceptionalism, it institutionalises normalisation, Léonard (2010a, p. 246) concludes that:

“all the main activities of FRONTEX⁵⁴ can be considered to be securitising practices and have therefore significantly contributed to the ongoing securitisation of asylum and migration in the EU”.

She argues this on two accounts: first, due to the semi-military character of actors involved in the operations (such as Guardia Civil in Spain) and that this kind of operations used to be reserved for traditional security issues - joint operations lead to semi-militarisation of border control and thus securitise migration through the link between military and security issues; second, securitisation occurs because of the extraordinary nature of the practices (Léonard, 2010a). Nevertheless, Léonard (2010a) notes that although Frontex deploys securitising practices, it was not (at least at that time) automatically an important actor in this matter.

Similarly, Karamanidou (2015, p. 48) also claims that “there is little doubt regarding the securitising effect” of Frontex's practices. She points out that Frontex produces knowledge

⁵³ Before the *Regulation 1168/2011* was adopted.

⁵⁴ By the term ‘all the main activities’ Léonard (2010a) understood analysis of tasks specified in art. 2 of the *Regulation 2007/2004*.

that shapes the representation of migration as a threat and is used to legitimise its operations (Karamanidou, 2015). Further, Vaughan-Williams (2015) refers to the hypocrisy of Frontex's claims about saving lives in contrast to push-back operations and pointed out its military-style of operations. Carrera (2007, p. 28) argues that Frontex "carries out 'coordinating intelligence-driven operations' based on risk analysis and threat assessment" which features together with the secrecy "lead to a lack of transparency and democratic accountability of the operations themselves". Therefore, the funding of Frontex should be "a subject to a comprehensive assessment" (Carrera, 2007, p. 28). Frontex has been also criticised by NGOs and independent watchdogs for the increase of competencies and budget without independent control, for unaccountability and impunity, increased deployment beyond European territory, military approach, lack of transparency, the search and rescue operations and push-back operations (Giannetto, 2014; Frontexit, 2016, 2017).

Coming back to Neal's (2009) argument about Frontex, it was argued that the risk analysis model is about assessing the threat and the links between migration and security. Therefore it is about assessing the threat that can emerge in the future, not about intercepting it. Neal refers in this instance to Bigo's understanding of 'proactive logic' "which anticipates the risks and the threats, locating the potential adversaries even before they have any consciousness of being a threat to others" (Bigo cited in Neal, 2009, p. 349). This understanding of Frontex's tasks was sustained by Deleixhe and Duez (2019) in terms of changes brought by the *Regulation 2019/1896* and it can be noticed that it is very similar to what was claimed by Tazzioli (2018) in the context of Eurosur.

Nevertheless, whereas the logic of Frontex's risk analyses or Eurosur can be understood this way when analysed separately, it is important to remember that they are part of a bigger system of border control that is informed by the assumption that migration is a threat on different levels. Further, whereas these elements of the system are focused on predicting and assessing future threats, they do it because of this assumption and while there are other tools directly aimed at stopping and countering irregular migration. Migration is not a new phenomenon that is being assessed just now to determine the risk it can bring in the future. It has been already claimed several times by the Member States and the EU in many documents that migration is linked to security therefore the assessments aim at allowing the EU's adequate response to immigration flow that is seen as a security threat.

It has to be nonetheless remembered that even after the latest update of Frontex's mandate, which increased its independence from the Member States, the European integrated border management (IBM) is a shared responsibility between the agency and Member States (art. 7 of *Regulation 2019/1896*). As Rijpma (2010, p. 1) points out:

“Frontex doesn't have any monopoly on border protection. Although Frontex's activities and future development need to be monitored, it is far more important to watch closely the practices of the Member States and the EU's institutions”.

Considering the above arguments, there are several reasons to consider Frontex a securitising actor. Another one is its cooperation with Europol. Europol is the EU's law enforcement agency, which has the mission “to support its Member States in preventing and combating all forms of serious international and organised crime, cybercrime and terrorism” (Europol, 2021b). The establishment of Europol is closely related to the Trevi Group as this has been the beginning of cooperation between police forces. The *Europol Convention* was signed only in 1995 and it entered into force in 1998. Before that, in 1993 an embryonic Europol was established as the Europol Drugs Unit. According to art. 2 of the *Convention*, Europol was to “improve (...) the effectiveness and cooperation of the competent authorities in the Member States in preventing and combating terrorism, unlawful drug trafficking and other serious forms of international crime” (European Communities, 1995a, p. 5). Later, the document specified the crimes in which the actor should be interested in as it indicated that in order to achieve this aim, Europol should “act to prevent and combat unlawful drug trafficking, trafficking in nuclear and radioactive substances, illegal immigrant smuggling, trade in human beings and motor vehicle crime” (European Communities, 1995a, p. 5). Therefore since the beginning, Europol was to counter illegal immigrant smuggling. Soon after the *Convention* was signed, a Counter Terrorism Task Force was also established.

Europol has become the European agency as a result of *Council Decision 2009/371/JHA in 2009*. According to art. 5, its main tasks include: collecting, storing, analysing and exchanging information and intelligence; notifying the Member States about information concerning them; aiding the investigations; asking the member state to set up joint investigations; providing intelligence and analytical support; preparing threat assessments, strategic analyses and general situation reports (European Union, 2009). In 2016, as in the case of Frontex, Europol's mandate was strengthened. *Regulation 2016/794* changed its name from the European Police Office to the European Union Agency for Law Enforcement

Cooperation. Among the changes brought by this *Regulation* should be pointed out that Europol can participate in joint investigation teams (JIT), however, can not apply any coercive measures (art. 4). Further, in 2016 also a European Counter Terrorism Center (ECTC) and a European Migrant Smuggling Centre (EMSC) were established at Europol. According to Europol's (2021a) website, the establishment of the latter was prompted by the "period of highly dynamic irregular migration" and is to contribute to the fight against migrant smuggling set as a key priority in the *European Agenda on Migration* (2015).

Migration has been securitised in connection with Europol in three ways. First, due to the access the law enforcement authorities and Europol have been given to border management tools (as presented in the previous sections). Second, because of Europol's contribution to the criminalisation of irregular migration. The fight against migrant smuggling has been framed in the EU as a humanitarian response – smugglers gain financial profits while putting migrants' lives at risk. Nevertheless, combating the smugglers' network is also to decrease the flow of irregular migrants. As Alagna (2021) points out, the EU has adopted "a one-way understanding of migrant smuggling as managed by ruthless criminal organisations". Although the safety of migrants should be the priority, sometimes those 'smugglers' that facilitate the movement are the only hope for migrants to reach a safe place and can do it without any harm as are led by humanitarian reasons. As Fernández-Rojo (2021) points out, since *Regulation 2016/794* entered into force, Europol took part in several Joint Investigation Teams (JITs) that regarded migrant smuggling. Nevertheless, it was noted that access to information about these operations is limited (Fernández-Rojo, 2021). According to Carrera and Guild (2016), the only conclusion from the available information (mainly the press releases published by Europol, that announce the success of their operations) is that there are substantial amounts of money spent on the prevention of irregular immigration and also that a significant number of police forces are required for these operations. The increase of the importance of the fight against migrant smuggling can be seen in the statement made by Erkki Koort, the chair of an internal security group at the European Council, who ranked migrant smuggling as a top EU priority, even before fighting terrorism (Nielsen, 2017). The fight against smugglers, even if in theory aimed just at them, can have repercussions on smuggled irregular migrants as well. In this context, Jones (2014, p. 20) claims that:

"law enforcement operations aimed at targeting "irregular migrants" - whether directly or as a side-effect of targeting "facilitators" - can lead to discrimination and fuel suspicion and hostility within and amongst communities".

As Carrera and Guild (2016) point out, the increase in the use of criminal sanctions against individuals that are involved in the irregular migration process has been identified as the criminalisation of irregular migration.

The third way in which securitisation of migration takes place in relation to Europol is through its cooperation with Frontex. Already in 2004, in art. 13 of *Regulation 2007/2004*, it was noted that Frontex can cooperate with Europol. Similarly, art. 22 of the *Council Decision 2009/371/JHA*, indicated that Europol “in so far as it is relevant to the performance of its tasks (...) may establish and maintain cooperative relations” with listed agencies, including Frontex (European Union, 2009, p. 48). The need for cooperation between agencies in the AFSJ was raised in the *Hague Programme (2005)*, *Stockholm Programme (2009)* as well as in the *JHA Strategic Guidelines (2014)* (Fernández-Rojo, 2021). The official document⁵⁵ was signed in 2008. Before that time, as Fernández-Rojo (2021) notes, the agencies have been already cooperating, however at the executive director’s level. This cooperation included:

“exchanging information and risk analyses in regard to irregular migration and cross-border crimes, participating in specific joint operations, establishing a secure communication link and contact points at the operational level, and increasing the agencies’ cooperation in supporting joint security programs” (Fernández-Rojo, 2021, p. 122).

The signed *Agreement (2008)* between Europol and Frontex indicated that the cooperation between the agencies should:

“relate to the performing of the tasks of Frontex and to relevant areas of crime within Europol’s mandate at the date of entry into force of this Agreement, including related criminal offences, and in particular to traffic in human beings and illegal immigrant smuggling” (*Strategic co-operation agreement ...*, 2008, p. 4).

The *Agreement (2008)*, therefore, put special attention on immigrant smuggling but did not exclude terrorism from the area of cooperation. Another *Agreement*, to extend their

⁵⁵ *Strategic Co-Operation Agreement between the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union and the European Police Office.*

cooperation, was signed in 2015⁵⁶. In the case of this *Agreement* (2015), in its beginning, it can be read that parties signed it considering “both Agencies’ awareness of the plurality of problems arising from international organized crime, especially terrorism (...)” (*Agreement on Operational Cooperation ...*, 2015, p. 1).

The areas of crime that were indicated in art. 3 of the *Agreement* from 2015 also, apart from facilitation of illegal migration, trafficking in human beings and other cross-border related crimes, include terrorism. The extent of the cooperation covers the exchange of information (including personal data of suspects of crime) on cross-border crime that will be included in the ESP (Eurosur) and joint planning of operational activities (*Agreement on Operational Cooperation ...* 2015). Further, in June 2019, these two agencies signed the *New Joint Action Plan* to ensure more structured cooperation.

The cooperation between Frontex and Europol was also strengthened by the introduction of the hotspot approach⁵⁷ in the *European Agenda on Migration* (2015) which was analysed by Fernández-Rojo (2021). According to this research, Frontex’s role at the hotspots includes: registration and screening (assistance in fingerprinting and determination of the identity of migrants), debriefing interviews (investigation of migrant smuggling and trafficking) and returns operations (coordination of removal process) (Fernández-Rojo, 2021). Further, Frontex is also involved in activities that take place before migrants arrive in the EU, that is detection and prevention of unauthorised border crossings, combating migrant smuggling and SAR operations (Fernández-Rojo, 2021). In terms of registration and screening, it should be pointed out that Frontex can issue a non-binding recommendation on identification assessment that the Member States, due to insufficient resources and pressure on the borders, can just follow (Fernández-Rojo, 2021). On the debriefing interviews, Frontex closely cooperates with Europol to determine the facilitators of migration, however those, according to the United Nations Special Rapporteur, should not take place after the migrant’s arrival⁵⁸ (Fernández-Rojo, 2021). Europol’s role at the hotspots was not specified in its *Regulation 2016/794*, but according to the 2015 *General Report* on Europol activities, it contributed to:

⁵⁶ *Agreement on Operational Cooperation between the European Police Office ("EUROPOL") and the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union ("FRONTEX")*, 04.12.2015.

⁵⁷ EU emergency mechanism that is being initiated after member state’s request facing sudden and exceptional migratory flow.

⁵⁸ According to the United Nations Special Rapporteur on the human rights, cited in Fernández-Rojo (2021), conducting such interview upon migrants’ arrival can induce hiding of the information by the migrants due to fear and trauma from the journey.

“collecting real-time intelligence from all landing proceedings and interviews, cross-checking such information against Europol databases, providing forensic support via the examination of electronic devices and document scanning, and supporting the national and local investigators by collecting and analyzing all material relevant to the fight against migrant smuggling, trafficking and terrorism” (Fernández-Rojo, 2021, p. 147).

It was also claimed that in 2017, Europol carried out secondary security checks at hotspots in Italy and Greece of 9,896 persons, 1,242 documents and 10,388 communication means (de Kerchove and Höhn, 2020). Nevertheless, even though there is significant secrecy around the actual function of Frontex and Europol in the hotspots, Fernández-Rojo (2021, p. 152) argues that both Europol’s and Frontex’s “tasks go well beyond the pure technical assistance and promotion of coordination”. According to Fernández-Rojo (2021), there should be a legal framework in place (that would complement the Standard Operating Procedures) to further specify Frontex’s and Europol’s operational responsibilities.

Considering the above, the cooperation between Frontex and Europol takes place in the area of combating migrant smuggling which, as claimed above, contributes to the securitisation of migration because of their criminalisation. Further, as it was pointed out, since 2016, Frontex is supposed to contribute to the fight against terrorism that is one of the principal tasks of Europol. According to de Kerchove and Höhn (2020) and also Frontex’s website (2018), the agency was significantly stepping up the fight against terrorism. Nevertheless, also, in this case, there is certain secrecy about details of the Frontex contribution to counter-terrorism efforts and its cooperation with Europol on this matter. Although Europol and Frontex did not hold joint exercises with the CTG, joint workshops on counter-terrorism issues took place (European Parliament, 2020). Further, according to Frontex’s Risk Analysis, it mainly contributes to the fight against terrorism through activities that have already been mentioned: screening, registration, document checks and intelligence gathering at the borders that support the Member States with identifying potential terrorists and through providing intelligence to Europol (Frontex, 2018b). This cooperation is a confirmation of the belief that terrorists are among migrants that come to the EU. The securitising effect of cooperation between Europol and Frontex that is argued here was pointed out by Carrera, Den Hertog and Parkin (2013). They claim that this inter-agency cooperation “foster processes of insecuritisation of 'migration', in particular of irregular

immigration” (Carrera, Den Hertog and Parkin, 2013, p. 349) which has been confirmed in this chapter.

5.6. Conclusions

This chapter has focused on the securitisation of migration through practices addressing four border control tools and cooperation between two agencies. It aimed at presenting how these tools can contribute to building the perception of the connection between counter-terrorism, migration and border control policies, and thus securitise migration through the association with terrorism. Three observations can be made to conclude this analysis. First, the usage of these security tools has been planned since very early on as it is directly connected to the creation of the Schengen area and the abolishment of the internal border controls. Nevertheless, it could be noticed that events such as 9/11 or the ‘Migration Crisis’ could have accelerated the development and strengthening of these practices or could have been used to legitimise them, for example in the case of Eurosur, or the strengthening of Frontex’s mandate in 2016.

Second, across the time analysed, at least three trends can be identified: an increase of impediments to irregular migration; an increase of use of technology and biometrics; and increasingly blurring boundaries between migration management, criminal law and counter-terrorism measures. Starting with the first trend, while all of the analysed systems have been strengthened during the period of the analysis (some of these on several occasions), all of these amendments somehow aimed at making these systems more effective in stopping irregular immigration. For example, in the case of SIS, the categories of alerts were extended. In the context of VIS, the list of criteria to be considered when putting a country on the black list was extended as well as the information on long-stay visa and residence permit holders were added to the system. Then, Eurodac, as other tools, experienced extending of its purpose and Eurosur, apart from providing surveillance of the sea, was tasked with air border and border crossing points surveillance. Also, Frontex’s and Europol’s mandates have been strengthened and their cooperation enhanced in order to improve their efforts in combating migrant smuggling (stopping the migrants from arriving in the EU). This attention to the cross-border crime and prevention of irregular migration that required surveillance on the sea borders reflects the already mentioned discourse on the border as a place of defence. In

this chapter, it could be seen that the threat, also through the practice, is presented as something that comes from the outside and has to be stopped before reaching EU territory.

As claimed by Deleuze (cited in Brighenti, 2007, p. 336), Panopticon is “a logical diagram of power rather than a mere physical visual setting”. Similarly, these tools aimed at improving the management of migration flow do not only extend the visibility of migration but demonstrate the EU's power over the migration flow. For instance, an alert in the SIS makes a person inadmissible to the Schengen area, information in VIS of expired visa means expulsion, a hit in Eurodac can mean transfer to the country of entry or a criminal investigation (when fingerprints match those from a crime scene), being spotted by European surveillance can mean being rescued and allowed into the EU or being returned to the country of origin. Further, all of these databases (except SIS) as well as Eurosur, primarily target third-country nationals and contribute to the representation of migration as a threat by aiming at both controlling and stopping irregular migration.

Moving to the increase of use of technology and biometrics and blurring of the boundaries between migration management, criminal law and counter-terrorism measures, one should consider three implications for modes of governance of security that are brought by securitising tools: de-politicisation, intelligence-led policing and cross-pillarisation (Balzacq, 2008). While in reference to the latter, the pillar structure has been modified by the *Lisbon Treaty* and it is not discussed here as it goes beyond the scope of this thesis, the de-politicisation and intelligence-led policing can be observed in the context of analysed security practices. De-politicisation implies moving the subject beyond the public debate. Balzacq (2008) in this regard refers to the EU's approach to ‘interoperability’ that is rather presented as a technical change. As Bonditti (cited in Scheel, 2013, p. 584) argues: “[t]he excessive resorting to technology effectively hides the political character of problems that technology is intended to solve”. This focus on technical change that leads to depoliticisation was pointed out in the context of Eurosur and was also visible in the latter EU's work on interoperability. Following observations made by other scholars, Jeandesboz (2011) notes that the EU frames the tools and their amendments as ‘technical’ in order to reach agreements in matters that are deemed to be related to the Member States sovereignty. Also, as Scheel (2013, p. 584) following Amoore and de Goede (2005) points out, usage of technology, for example, biometrics, presents tools as something ‘scientific’, ‘neutral’, ‘objective’ which makes it difficult to dispute the decisions made on their account. However, relying on

technology and biometrics brings side effects and is not without errors that have to be taken into account. An important remark on this matter was made by the EDPS who argued that:

“(…) the tendency to use biometric data in EU wide information systems (VIS, EURODAC, Information System on driving licences, etc.) is growing steadfastly, but is not accompanied by a careful consideration of risks involved and required safeguards” (EDPS cited in Queiroz, 2019, p. 175).

Moreover, Wilson and Weber (2008) who analysed the usage of surveillance and biometrics in the context of Australia, claim that the usage of biometrics leads to the intensification of securitisation and criminalisation of border crossings and asylum seekers.

The second implication, intelligence-led policing, is a result of granting access to the databases and expanding their purpose. As Balzacq (2008) points out, ‘normal politics’ stands out for limited use and specified purposes of tools. He argues that routine access to non-police databases such as VIS should not be granted to police. SIS, as Brouwer (2008) notes, was not established for intelligence purposes, unlike Europol’s databases, and had limited categories of data to be used by authorities responsible for border checks and other police and customs checks. Nevertheless, in 2005 Europol was given access to data under art. 95, 99, 100 and in 2018 to all data. Also, Eurodac, as presented in this chapter, experienced the extension of purpose and granting of access to law enforcement, which resulted in concerns raised by the EDPS and UNHCR. Thus analysed border control tools and Frontex are now used for counter-terrorism purposes. The extension of access and broadening of the tools’ purpose contributes to the blurring of the lines between migration management, criminal law and counter-terrorism measures. Because, as stated above, all of the tools, with exception of SIS, target the third-country nationals, they contribute to the building of the association between migration and terrorism. As security and law enforcement data is considered classified information, there is not much publicly available information in general on the link between counter-terrorism and border control tools, and the lack of accountability is one of the concerns for some scholars when it comes to interoperability, surveillance systems and law enforcement (Sombetzki and Quicker, 2016).

The third observation is that these security practices contribute to the securitisation of migration. As Brighenti points out, “[v]isibility is not simply about video cameras and the technologies of image transmission (...)” (Brighenti, 2007, p. 337), “[v]isibility is a

metaphor of knowledge (...): it is a real social process in itself” (Brighenti, 2007, p. 325). Thus as argued in this chapter and by, among others, Bigo (2002), these tools produce knowledge, they contribute to determining what is the threat, which immigrant is a risk, and in which situation EU borders and the EU as such can be put in danger because of migration. Following Lyon’s (cited in König, 2016) claim that usage of transnational surveillance systems leads to social sorting and discriminatory treatment through obtaining data for the purpose of classifying people into risk categories such as citizens, migrants and potential criminals, König (2016) argued that also SIS, VIS and Eurodac display patterns of social sorting. Therefore, on the daily basis, these security practices reinforce the perception of migration as a threat, by the necessity to use them and also directly by classifying individuals as such.

Also, following Balzacq’s (2008) definition, they are argued here to be securitising practices. Nevertheless, as pointed out in Chapter 2, Balzacq’s (2008, p. 79) also claims that “not all instruments of securitization are securitizing tools” and Léonard, (2010) while applying Balzacq’s definition, considers two criteria to identify securitising tools which need to be addressed: practices being commonly used for tackling problems generally considered as security threats and extraordinary practices.

Considering Léonard’s (2010) criteria, one returns to Boswell’s (2007) argument that we have observed border control tools being used for counter-terrorism purposes but not the usage of counter-terrorism tools for migration control. However, as pointed out in the analysis, the analysed tools have changed and new elements, such as the usage of biometrics or drones, which have been previously used to tackle security threats, can be distinguished. Moreover, Europol’s and law enforcement’s access to analysed tools change their character as indeed these actors have been commonly responsible for tackling problems generally considered as security threats. Thus while this criteria of securitising tool can be assumed as ‘ticked’, the understanding of ‘extraordinary’ character is more controversial as presented in Chapter 2. While Léonard’s (2010) adopted a wide definition, one can speculate whether granting Europol and law enforcement access to analysed tools became at some point normalcy.

This thus is linked to the distinction between securitising tools and tools of securitisation where the latter “post-date successful securitization” (Balzacq, 2008, p. 80) implies the

perception of securitisation as a complete process that has an ‘end’. Therefore, if one assumes that securitisation has been already successfully securitised in the 1980s, then none of the measures adopted since then can be considered as a securitising tool because they are tools applied to address an established threat. It creates several problems as this would mean that this analysis should start with establishing whether the securitisation in the 1980s was successful. While Balzacq does not define ‘successful’ securitisation through practice, one could consider the Copenhagen School’s understanding, which is if the move is accepted by the audience. This leads to questions about identifying the audience introduced in Chapter 2 and determining if this securitisation was taking place only on the national level.

Another possibility is assuming that securitisation is not a complete process, does not necessarily have an end and can fluctuate because as the audience, the referent object, the securitising actors and finally, the understanding of the threat can slightly change across time; it may require adjustments or reinforcement – may ‘spiral over time’ (see Bello, 2020; Léonard and Kaunert, 2020; Panebianco, 2020). Thus, migration taken as a threat to the labour market or culture and identity of the society in the 1980s required a ‘reinforcing’ securitising move after 2004 when perceived as a possible terrorist threat. Consideration should be also given to the question of whether a once securitised problem can just stay perceived as a threat forever, that is if there is an ‘expiry date’ for securitisation. Or maybe even without desecuritisation⁵⁹ a problem can gradually cease to be considered as a threat thus securitising discourse and tools need to continue to be in use. Another question that may be prompted by the evolution of securitising discourse and practices concerns the reason for securitisation. Without analysing the objectiveness of the threat posed by migration, it may have been securitised in the EU in order to strengthen the identity of ‘us’ versus ‘them’ who come from outside or to blame someone for emerging problems. In this case, the securitising discourse and practices would be needed to be sustained or repeated to address the generation changes in the society or the new problems.

⁵⁹ Desecuritisation is a process opposite to securitisation defined as “the shifting of issues out of emergency mode and into the normal bargaining process of the political sphere” (Buzan, Wæver and de Wilde, 1998, p. 4).

6. Discourse that allows securitising practices

Discourse, according to the Copenhagen School (CS), can make certain measures possible through the securitisation move, but also, as claimed by Bigo (2014), can be used to legitimise already adopted practices. While Chapter 3 was focused on discourses on migration, terrorism and border control and how they contribute to the representation of migration as a threat, this chapter again puts attention on discourse - however, this time it is a discourse on security practices that permits their usage. Thus, it examines additional ways of legitimisation of the security practices in addition to certain representations of terrorism, migration and border control. Although this thesis follows Bigo's position, it does not analyse whether a certain discourse is what prompts a policy output or legitimises it. It assumes that even though such examination would be thought-provoking, what is important when analysing securitisation of migration, is what arguments and assumptions have been used to allow practices to materialise.

This chapter, therefore, focuses on the EU discourse on the security practices in the area of migration management, border control and counter-terrorism. The analysis presented here is based on the same EU documents that were used for discourse analysis presented in Chapter 4. Moreover, the same method of discourse analysis (six steps) was used. As a result, the following strands were identified: 'surveillance and data exchange as essential for the AFSJ', 'citizens' expectations', 'the need for technological advances in counter-terrorism' and 'preventive and pre-emptive measures'. While these strands do not exhaust the EU discourse on practice⁶⁰, they are the most prevailing themes in the initial attempt to map it.

6.1. The discourse of surveillance and data exchange as 'essential' for the AFSJ

The key element of the first documents subject to the discourse analysis, that is *Declaration of the Belgium Presidency* (1987), *The Palma Document* (1989) and the *Schengen*

⁶⁰ For example, the theme of 'protection' can be also visible in the legitimisation of Eurosur (saving migrants lives through surveillance). However, it was not visible in all analysed periods and was already mentioned in the context of discourse on migrants and in the previous chapter.

Convention (1990), is the assumption that the abolishment of checks at the internal borders will result in increased security threats such as immigration, cross border crime and terrorism, therefore the security measures needed to be strengthened. It thus represents the analysed security tools as necessary features of the AFSJ. In the *Declaration* (1987), the high modality was used twice in this context: while stating that the abolishment “must be accompanied by, and depends on, a strengthening of controls at the external borders” and while claiming “the necessity to further strengthen (...) cooperation in these matters” of immigration and against drugs and terrorism. (Bunyan, 1997, p. 10). Similarly, in the *Palma Document* (1989) it was stated that achieving:

“the area without internal frontiers is linked to progress in inter-governmental cooperation to combat terrorism, international crime, drug trafficking and trafficking of all kinds. This cooperation will be stepped up (...)”

and that:

“an area without internal frontiers would necessitate tighter controls at external frontiers. Controls carried out at those frontiers are in fact valid for all the Member States. Those controls must be highly effective and all the Member States must be able to rely on them” (Bunyan, 1997, pp. 12-13).

The *Palma Document* (1989) also presented a list of measures that were ‘essential’ or ‘desirable’. Among the former, the exchange of information between law enforcement and customs was pointed out. Further, the adoption of the *Schengen Convention* (1990) also was based on this assumption as it sets out rules that were considered necessary for the abolishment by the signatory states. It can be read there that:

“The competent authorities shall use mobile units to carry out external border surveillance between crossing points; the same shall apply to border crossing points outside normal opening hours. This surveillance shall be carried out in such a way as to discourage people from circumventing the checks at crossing points”

and

“The Contracting Parties shall assist each other and shall maintain constant, close cooperation with a view to the effective implementation of checks and surveillance. They shall, in particular, exchange all relevant, important

information, with the exception of personal data, unless otherwise provided for in this Convention” (European Communities, 1990b, pp. 21-22).

This shows that already in the 1980s the exchange of data and surveillance, although not yet that advanced, were important for the creation of the area without internal borders. The discussed assumption is significant as it points out the relation between border control and counter-terrorism and migration policies. It constructs both terrorism and migration as threats that come from the outside, as something that the area without internal borders has to be defended from on the external borders. Huysmans (2000) refers to this assumption and argues that the link between the removal of the internal controls and the need for strengthening the external borders was made so strong that it became common sense.

This assumption did not disappear after the establishment of the Schengen area or incorporation of Schengen acquis into the body of European Law. As pointed out in Chapter 4, the *Tampere Presidency Conclusion* (1999), claimed that the freedom of movement can not be only reserved for the EU citizens. Nevertheless, it is this rationale that legitimises usage of security measures:

“This freedom should not, however, be regarded as the exclusive preserve of the Union’s own citizens. (...) This in turn requires the Union to develop common policies on asylum and immigration, while taking into account the need for a consistent control of external borders to stop illegal immigration and to combat those who organise it and commit related international crimes” (European Council, 1999, p. 2).

Whereas the *Dublin Convention* (1990) pointed out the “joint objective of an area without internal frontiers” (European Communities, 1990a, p. 1), the *Dublin Convention II* (2003) and *III* (2013) apart from noting that “a common policy on asylum (...) is a constituent part of the European Union's objective of progressively establishing an area of freedom, security and justice” (European Union, 2003, p. 1; 2013d, p. 1), have also added that the creation of this area “makes it necessary to strike a balance between responsibility criteria in a spirit of solidarity” (European Union, 2003, p. 1; 2013d, p. 34). In order to apply these documents, the Eurodac that not only facilitates determining the member state responsible for examining the asylum application, but also the identification of irregular immigrants and investigation of serious crime and terrorism (since 2013) was established.

Further, the *Regulations* establishing Frontex (2004) and then the one amending it (2016) have also referred to the AFSJ while claiming that:

“integrated management ensuring a uniform and high level of control and surveillance (...) is a necessary corollary to the free movement of persons within the European Union and a fundamental component of an area of freedom, security and justice” (European Union, 2004, p. 1).

Shortly after it, in 2005, the free movement of people has been used to legitimise the stepping up of cooperation for the purpose of counter-terrorism, combating cross-border crime and illegal immigration in the *Prüm Convention* (2005) and the *Hague Programme* (2005), where, while referring to improving the exchange of information, it was claimed that “strengthening freedom, security and justice requires an innovative approach to the cross-border exchange of law-enforcement information” (European Union, 2005, p. 7). Later, in 2007, it was acknowledged that the establishment of SIS II also serves “maintaining a high level of security within the area of freedom, security and justice of the European Union” (European Union, 2007a, p. 63).

Almost 25 years after the signing of the *Schengen Agreement*, the *Stockholm Programme* (2009) stated that:

“In spite of (...) important achievements in the area of freedom, security and justice Europe still faces challenges. These challenges must be addressed in a comprehensive manner. Further efforts are thus needed in order to improve coherence between policy areas” (European Union, 2010, p. 4).

The document pointed out several ways in which this should be achieved, among others, it referred to the establishment of Eurosur and cooperation between border guard and law enforcement authorities, as well as systems recording entry and exit (European Union, 2010). The goal of continuing to build the area of justice, freedom and security by adopting “coherent policy measures (...) with respect to asylum, immigration, borders and police and judicial cooperation” was also repeated in the strategic guidelines (European Council, 2014, p. 1).

Finally, in the last period of the analysis, during the ‘Migration crisis’, the reference to the area without the borders as justification for strengthening the controls was repeated in several documents. First, in the *European Agenda on Security* (2015), it was claimed that the EU is

to “ensure that people live in an area of freedom, security and justice, without internal frontier”, as people “need to feel confident that, wherever they move within Europe, their freedom and their security are well protected” (European Commission, 2015a, p. 2). Then in the *Communication on Stronger and Smarter Information Systems for Border and Security* (2016), it was explicitly claimed that:

“The absence of internal borders in the Schengen area requires strong and reliable management of the movement of persons across the external borders. This is a prerequisite to ensure a high level of internal security and the free movement of persons within that area. At the same time, the absence of internal borders means that law enforcement authorities in the Member States also have access to relevant data on persons. There are a number of information systems and databases at EU level that provide border guards, police officers and other authorities with relevant information on persons, in accordance with their respective purposes” (European Commission, 2016b, p. 3).

Similarly, in the *Communication on Enhancing security in a world of mobility* (2016), the key role of the strong external borders for the freedom of movement was pointed out. They were named the precondition for the Schengen area that was claimed to be “one of the EU's most cherished achievements, bringing unique economic and societal gains as an area without controls at internal borders” (European Commission, 2016a, p. 2). Nevertheless, the document pointed out that “the challenge of maintaining security in an open Europe has been put to a huge test in recent years” which appears like a call for defending this European achievement (European Commission, 2016a, p. 2).

Although the EU was especially interested in the area without internal borders while it was being established, it has been consequently referring to it also afterwards. In contrary to, for example, funding for research or infrastructure developments that are not always noticed or recognised as European projects, the free movement of people is one of the most apparent aspects of EU membership. Presenting it as a ‘cherished achievement’ that is under threat provides therefore a strong legitimising argument that can persuade both the citizens and the Member States, especially, when it is pointed out that problems at the borders of one country directly impact the others (as done in the *Schengen Borders Code*).

6.2. The discourse of ‘citizens’ expectations’

Actions in the area of migration management, border control and counter-terrorism policies can be seen as somehow controversial and require special legitimisation not only at the level of the Member States (matters closely linked to sovereignty) but also on the societal level. The second strand in the discourse on the security practices analysed in this chapter refers to citizens’ expectation to take measures in the area of migration management, border control and counter-terrorism policy. As Sternberg (2016) points out, public opinion is the main parameter for those studying political legitimacy. Hence, the EU claiming public support for its actions is a strong legitimising argument. Sternberg (2016) further noted that the turn towards the citizens in the EU legitimising discourse occurred in the 1970s⁶¹. While promotion of democracy, dialogue and listening to the citizens became focal points of the EU discourse (Sternberg, 2016), democratic deficit and legitimacy also caught the interest of scholars (see for example Lord and Magnette, 2004; Holzhaecker, 2007; Scharpf, 2009). The reference to citizens’ expectations, therefore, can then follow the general tendency in the EU discourse, however, can be especially significant in the case of such contentious matters. It constructs the EU actions as the realisation of the will of people which cannot be easily undermined.

In the analysed documents, the first reference to public expectation was made in the *Tampere Programme* (1999) where it was pointed out that:

“People have the right to expect the Union to address the threat to their freedom and legal rights posed by serious crime” (European Council, 1999, p. 2).

Further, it was claimed that:

“The challenge of the Amsterdam Treaty is now to ensure that freedom, which includes the right to move freely throughout the Union, can be enjoyed in conditions of security and justice accessible to all. It is a project which responds

⁶¹ A representation of which can be the introduction of Eurobarometer to measure public opinion.

to the frequently expressed concerns of citizens and has a direct bearing on their daily lives” (European Council, 1999, p. 2).

A few years later, the citizens were mentioned in the introduction to *Hague Programme* (2005). It can be read there that:

“[t]he citizens of Europe rightly expect the European Union, while guaranteeing respect for fundamental freedoms and rights, to take a more effective, joint approach to cross-border problems such as illegal migration, trafficking in and smuggling of human beings, terrorism and organised crime, as well as the prevention thereof” (European Union, 2005, p. 1).

First of all, this citizens’ expectation that was invoked here, was defined as ‘right’, so strengthening of the means of control was not only seen as necessary by the people, it was also confirmed by the EU. In the next part of the sentence, there is an assurance about respecting freedoms and rights which, in addition to democracy, is another important element of the EU discourse. Nevertheless, while respecting freedoms and rights, a more effective approach was claimed to be needed in regard to various ‘problems’. The first one was defined as ‘illegal’ migration⁶² with terrorism and serious crime that were mentioned later. Further, it was claimed that not only a ‘joint approach’ is expected by the public, but also the prevention of these ‘problems’. While the discourse on prevention is analysed later, this document indicates that the public considers illegal immigration as a problem that requires prevention.

In the same year, in the *Strategy for the External Dimension of JHA* (2005), the citizens were referred to again. It was stated that:

“In order to meet the expectations of its citizens the European Union must respond to the security threats of terrorism, organised crime, corruption and drugs and to the challenge of managing migration flows” (Council of the European Union, 2005a, p. 2).

The high modality ‘must’ was used to stress the importance of addressing the citizens’ expectations by the EU. This time, however, not only illegal immigration was identified as requiring the EU response but the migration flow in general. The next reference to the

⁶² The concerns over using this term has been presented in Chapter 4 of this thesis.

importance of public opinion was then made in the *Stockholm Programme* (2009) where it was stated that:

“The European Council considers that the priority for the coming years will be to focus on the interests and needs of citizens. The challenge will be to ensure respect for fundamental rights and freedoms and integrity of the person while guaranteeing security in Europe. (...) All actions taken in the future should be centred on the citizen of the Union and other persons for whom the Union has a responsibility” (European Union, 2010, p. 4).

It demonstrates the continuous importance given to citizens in the EU discourse. It was also again linked to providing security which is constructed as the EU responsibility towards its citizens. A similar statement was provided in the *Internal Security Strategy* (2010): “For citizens of the European Union, security is one of the main priorities” (Council of the European Union, 2010, p. 7), but later, this document also pointed out providing security to EU citizens outside the EU territory:

“There is no such thing as "zero risk" but, despite that, the Union must create a safe environment in which people in Europe feel protected. Furthermore, the necessary mechanisms must be put in place to maintain high security levels, not only within EU territory, but also as far as possible when citizens travel to third countries or find themselves in virtual environments such as the Internet” (Council of the European Union, 2010, pp.11-12).

First, it was repeated that the EU citizens expect the Union to provide security. Then again a high modality ‘must’ was used to legitimise the EU action in this matter. It was claimed that ‘a mechanism’ to provide ‘high security levels’ is needed also outside the EU territory, in the third countries which indicates spatial extension of the EU’s responsibility and area of operation.

The next reference to the citizens (in the analysed documents) can be seen in the *European Agenda for Security* (2015), so in the document adopted during the ‘Migration Crisis’. Already at the beginning of this document, it was noted that “Europeans need to feel confident that, wherever they move within Europe, their freedom and their security are well protected (...)” (European Commission, 2015a, p. 2). In this case, as on various occasions in the EU discourse, security was put next to freedom as the main priority. In a year after the

‘Migration Crisis’ started, the *Communication on Stronger and Smarter Information Systems for Border and Security* (2016) referred to citizens again:

“EU citizens expect external border controls on persons to be effective, to allow effective management of migration and to contribute to internal security. The terrorist attacks in Paris in 2015 and in Brussels in March 2016 bitterly demonstrated the ongoing threat to Europe's internal security” (European Commission, 2016b, p. 2).

This time the EU did not just refer to migration flow management next to the counter-terrorism policy. It directly links control of the borders and migration management to the threat of terrorist attacks. Moreover, it was claimed that it is the EU citizens’ expectation to strengthen the controls at the borders to protect them. The same year, in another *Communication* it was announced that:

“This Communication takes this agenda a step further, setting out practical measures to accelerate and broaden this work. It builds on a powerful consensus – in the institutions and in public opinion – that the EU must do its utmost to help Member States to protect citizens, in a way which maximises the opportunities for cooperation while guaranteeing the full respect of the fundamental rights on which EU societies are based” (European Commission, 2016a, p. 2).

In this *Communication*, various measures were claimed to be needed, such as the establishment of the European Border and Coast Guard, Entry-Exit System (EES), European Travel Information and Authorisation System, enhancing document security and reinforcing Europol (European Commission, 2016a). These measures were legitimised by a claimed ‘powerful’ consensus that came from both the EU institutions and public opinion. Again, a high modality (must) was used to express the EU responsibility to protect the EU citizens.

Referring to possessing public support or following citizens expectations can be seen as a strong legitimising argument that has been used several times by the EU. Whereas indeed according to the data from Eurobarometer the public opinion in the EU has been considering the fight against terrorism and migration management as important areas in the European cooperation⁶³ (see, for example, European Commission, 2015c), citizens have not been

⁶³ The importance that has been given to this topics has varied across time.

asked about their opinion on specific measures⁶⁴ but about their attitude towards immigrants or more general importance of these topics. Invoking this argument can distract the attention from the scrutiny of the necessity and proportionality of specific measures. It not only constructs the security measures as something not controversial and commonly accepted (and expected), it also presents the EU as listening to citizens, being responsive and fulfilling their will.

6.3. The discourse of the need for technological advances in counter-terrorism

This thesis, while analysing the securitisation of migration, puts special attention on the connection between migration management and counter-terrorism policy. In terms of the usage of tools in analysed policies, the previous chapter has shown that while the considered tools have been primarily established for the purpose of border control and migration management (with some exceptions, for example, VIS), with time they were also used for law enforcement purposes and counter-terrorism. The reference to the terrorist threat to legitimise usage of the established tools can be also seen in the EU discourse. This section presents when and how the terrorist threat was invoked to give a reason for allowing access to the border control databases for Europol and law enforcement authorities.

While already in the 1980s, illegal immigration, cross-border crime and terrorism were jointly perceived as the reasons for the strengthening of the external borders and stepping up cooperation⁶⁵, the actual focus on counter-terrorism policy can be observed after the 9/11 attack. Moreover, the connection between migration and terrorism was especially visible later on, after the attack in Madrid (2004). Indeed, the *Declaration on Combating Terrorism* (2004), where it was stated that “[t]he Union and its Member States pledge to do everything within their power to combat all forms of terrorism” (European Council, 2004, p. 1), explicitly linked the control of movement to the fight against terrorism:

⁶⁴ At least in the case of Eurobarometer.

⁶⁵ Visible for example in the *Declaration of the Belgium Presidency* (1987), in the *Palma Document* (1989) or in the *Tampere Programme* (1999).

“Improved border controls and document security play an important role in combating terrorism. The European Council therefore emphasises that work on measures in this area needs to be expedited” (European Council, 2004, p. 7).

After expressing a strong commitment to the fight against terrorism, the EU claimed the importance of border control tools for this purpose, simultaneously arguing for their improvement. The relevance of these tools was expressed with phrases such as ‘important role’, ‘to emphasise’, ‘needs to be expedited’. The document referred at this instance to SIS, VIS and Eurodac. It called for the inclusion of biometrics to EU visas and passports as well as for enhancing interoperability of the databases in order to:

“exploit their added value within their respective legal and technical frameworks in the prevention and fight against terrorism” (European Council, 2004, p. 7).

Further, among the areas recognised as important, the obligation of communication of passenger data by carriers as well as the establishment of the European Borders Agency were pointed out. Thus, it can be seen that although in the *Regulation* that established Frontex in 2004, the counter-terrorist mandate was not mentioned, it was expected to improve the security of the borders which was seen as crucial for the country-terrorism policy. The *Declaration* from 2004 was followed by the *EU Action Plan on Combating Terrorism* (2004) that among the “new strategic objectives” mentioned ensuring effective systems of border control. Measures presented in this document include the above-mentioned changes such as enhancing interoperability between databases, exchange of personal information (biometrics such as DNA, fingerprints and visa data) for purpose of terrorism as well as the establishment of the European Borders Agency among others. The significance of interoperability and biometrics was also claimed in the *Hague Programme* (2005), which states that:

“The management of migration flows, including the fight against illegal immigration should be strengthened by establishing a continuum of security measures that effectively links visa application procedures and entry and exit procedures at external border crossings. Such measures are also of importance for the prevention and control of crime, in particular terrorism. In order to achieve this, a coherent approach and harmonised solutions in the EU on biometric identifiers and data are necessary” (European Union, 2005, p. 7).

This document first argues for the necessity of security measures in migration management constructing migration as a security matter, then links it to counter-terrorism policy describing biometrics as ‘necessary’.

In another document adopted in 2005, the *Counter-Terrorism Strategy*, it was pointed out that, the openness and lack of internal borders can be abused by terrorists. It was also claimed that terrorism has roots in many parts of the world beyond the EU territory. In order to protect the EU from this threat the document argued for the strengthening of the external borders:

“We need to enhance protection of our external borders to make it harder for known or suspected terrorists to enter or operate within the EU. Improvements in technology for both the capture and exchange of passenger data, and the inclusion of biometric information in identity and travel documents, will increase the effectiveness of our border controls and provide greater assurance to our citizens. The European Borders Agency (Frontex) will have a role in providing risk assessment as part of the effort to strengthen controls and surveillance at the EU’s external border. The establishment of the Visa Information System and second generation Schengen Information System will ensure that our authorities can share and access information and if necessary deny access to the Schengen area” (Council of the European Union, 2005c, p. 10).

Thus, as in the previous documents, the *Strategy* referred to the same tools: biometrics, VIS, SIS II and Frontex which were to be important in the fight against terrorism.

Then the next significant reference to the exchange of data and border control can be observed in the document *Preventing lone actor terrorism – Food for thought*, that is in a document addressing the then-recent terrorist attacks: in 2011 and 2012. The document, while stressing the difficulties in addressing lone-actor terrorism, argued for the importance of monitoring travels and exchanging information since some of the lone wolves have travelled abroad prior to the attacks. In this regard, usage of VISA and PNR as well as “making full use of SIS for purpose of unveiling terrorist travel activities” were noted to be of use (Council of the European Union, 2012, p. 10).

Again, increased attention on border control tools can be observed in the time of the ‘Migration Crisis’ and after the attacks in Paris, Copenhagen and Brussels. The *European Security Agenda* (2015), which refers to these attacks, claimed that:

“Common high standards of border management, in full respect of the rule of law and of fundamental rights, are essential to preventing cross-border crime and terrorism” (European Commission, 2015a, p. 6).

The document mentioned various tools of information exchange such as SIS (that, as the result of an upgrade in 2015, has been used for the purpose of counter-terrorism), Stolen and Lost Travel Documents (SLTD) and PNR, as “[t]racking the movements of offenders is key to disrupting terrorist and criminal networks” (European Commission, 2015a, p. 7). Further, the document referred to the importance of common risk indicators that shall improve the checks on persons. In their maintenance, the ‘key’ role was assigned to Europol and Frontex (European Commission, 2015a).

In 2016, in the *Communication on Stronger and Smarter Information Systems for Borders and Security* (2016) it was claimed that:

“[b]order management, law enforcement, and migration control are dynamically interconnected. EU citizens are known to have crossed the external border to travel to conflict zones for terrorist purposes and pose a risk upon their return. There is evidence that terrorists have used routes of irregular migration to enter the EU and then moved within the Schengen area undetected” (European Commission, 2016b, p. 2).

Further in this document, it was noted that even though there are various European databases already in use by the border guards and police, it was claimed that “the EU data management architecture is not perfect” (European Commission, 2016b, p. 2):

“[t]here is inconsistency between databases and diverging access to data for relevant authorities. This can lead to blind spots notably for law enforcement authorities, as it may be very difficult to recognise connections between data fragments. It is therefore necessary and urgent to work towards integrated solutions for improved accessibility to data for border management and security, in full compliance with fundamental rights” (European Commission, 2016b, pp. 3-4).

This *Communication* first recalled the terrorist threat claiming that terrorists use the migration routes to then point out the possible flaw of the system and use the security reason to argue for the ‘urgent’ need to improve these tools. The *Communication* pointed out how the ‘inconsistency’ between the information systems should be improved what included ensuring usage of the systems, adding new functionalities, providing law enforcement authorities with access to the systems when it has not been done yet and adding new categories of data to be stored.

Even stronger demonstration of the importance of exchange of data for counter-terrorism can be observed in another *Communication on Enhancing Security in a World of Mobility* from the same year where it was argued that:

“Whilst borders are only part of the solution to security, gaps in border control bring gaps in security. The emergence of foreign terrorist fighters as a major security risk has underlined the cross-border threat and the particular importance of comprehensive and effective border checks, including on EU citizens. This adds to broader concerns that counter-terrorism has been hampered by the ability of terrorists to operate across borders, putting the spotlight on gaps in the sharing of key intelligence” (European Commission, 2016a, p. 4).

The European Commission again stressed the importance of border security for counter-terrorism purposes. It also indicated that there are ‘gaps’ in the information exchange system that have been addressed later in the document:

“Successive terrorist attacks have highlighted the complex and dynamic terrorism threat faced by Europe today. It seems clear that shortcomings in the exchange and use of information have contributed to the failure to prevent attacks and apprehend suspected terrorists. Effective and timely information-sharing among relevant authorities (security and law enforcement authorities, including customs and border guards where relevant) is a vital prerequisite for successful action against terrorism and serious crime. But progress in this area has proved difficult, and there is still fragmentation at both national and EU levels that risks to leave dangerous security gaps” (European Commission, 2016a, p. 11).

Here the European Commission explicitly used the terrorist threat to legitimise the strengthening of border control tools. It first emphasised the threat of terrorism to then link

the failure of prevention of the then-recent attacks to the weakness of the exchange of data. Moreover, the word ‘clear’ was used to indicate certainty of it being the problem. This exchange of information, not only between law enforcement authorities but also between customs and border control guards, was defined as a “vital prerequisite” of the success of counter-terrorism policy. The ‘gaps’ in the system were characterised as ‘dangerous’ to stress the importance of upgrading the tools. Later, the document while referring to “the scale of the new security challenges” (European Commission, 2016a, p. 12) presented how these ‘gaps’ should be removed. It included adding new functionalities to existing databases and also the creation of new systems. The EU presented the exchange of information as crucial to border control, to counter-terrorism and more generally, to ensuring security in the EU based on the following arguments:

“[i]n the face of the terrorist threat faced today, the efficiency of security checks is highly dependent on the exchange of information not only between law enforcement authorities, but also intelligence communities” (European Commission, 2016a, p. 4),

“[d]elivering on better border management, better use of the tools and databases available, and developing new tools and cooperation mechanisms for the future are the keys to providing strong borders and effective security for citizens in a world of mobility. This can make a crucial difference to the security of the EU, its Member States and its citizens” (European Commission, 2016a, p. 15),

and,

“[i]f the EU uses its law enforcement and border control tools to the full, exploits the potential of inter-operability between information sources to identify any security concerns from a common pool of information, and uses the stage of entry into the EU as a key point for security checks to take place, the result will negate the ability of terrorist networks to exploit gaps” (European Commission, 2016a, p. 4),

It used terms such as ‘highly dependent’, ‘the keys’, ‘crucial difference’ and ‘key point’. It then claimed the need for upgrading the Europol’s access to the European databases such as VIS, Eurodac, SIS (after the new mandate), PNR as well as the future system: EES and ETIAS (European Commission, 2016a). These actions were claimed in the *Communication* as needed to “be taken in the immediate future” which emphasises the sense of the urgency presented in this document (European Commission, 2016a, p. 15).

6.4. The discourse on preventive and pre-emptive measures

The last strand of the EU discourse on practices which is analysed in this chapter refers to the EU's perception of prevention and pre-emptive measures. Preventive, precautionary or pre-emptive⁶⁶ measures are not new phenomena in security policies. Scholars addressed their usage in the US, Australia and also in Europe (de Goede, 2008, 2011; Wilson and Weber, 2008; den Boer, 2015). As den Boer (2015) notes, they have been endorsed not only by states but also by some multilateral fora (for example NATO or UN). The EU in its documents commonly refers to 'prevention' of terrorism, crime and illegal/irregular migration. Further, the preventive logic can be observed in the naming and functioning of key instruments that are repeatedly cited in its documents such as risk analysis and threat assessments. Den Boer (2015) provides some examples of preventive discourse when analysing the risk of preventive logic for human rights, and argues that the preventive-security logic has been deeply rooted in the EU's external security discourse. She points out that the field of counter-terrorism is one of the most obvious examples but also in the area of migration management and border control this preventive logic can be observed (den Boer, 2015).

It should be noted that all of the analysed systems (SIS, VIS, Eurosur and Eurodac) are driven by the logic of preventive security and the wording of purpose of some of them (VIS and Eurosur) explicitly cite prevention. Also, this logic can be noticed in the case of Frontex and Europol's which have been identified by den Boer (2015, p. 5) as the "visible messengers of preventive-security methods". The wording of their current objectives and tasks also includes the aim of prevention of serious crime and terrorism. This section does not analyse the preventive or pre-emptive nature of the security tools but instead builds on den Boer's (2015, p. 2) claim that:

"Europe's security discourse is built on anticipatory risk assessment (...) thus preparing the ground for legitimizing the widespread use of surveillance

⁶⁶ According to de Goede (2011, p. 9), while prevention refers to "risks that are statistically knowable and calculable according to cycles of regularity" (risk management strategies), precaution addresses the risks that are "irregular incalculable and (,,) unpredictable". Further, pre-emption "exceeds the logic of (statistical) calculability, and involves, instead, imaginative or 'visionary' techniques such as stress-testing, scenario planning and disaster rehearsal" (de Goede, 2011).

instruments for the pro-active monitoring of the movements, transactions, careers and intentions of both European and non-European citizens “,

The section, therefore, addresses the usage of prevention as a reason for adopting and strengthening analysed security tools. It thus contributes to the academic literature by providing a broader analysis of the usage of this logic in a longer period of time.

The EU has already been referring to the need to ‘prevent’ some threats, not only to ‘combat’ them, before the 9/11 attack. Already in the *Declaration of the Belgium Presidency* (1987), it was noted that:

“The TREVI group is primarily competent for achieving the objective of the Member States that they pool their resources in order to strengthen their capacity to the maximum to prevent acts of terrorism and to bring those responsible to justice” (Bunyan, 1997, p. 11).

This indicates that already in the late 1980s, the counter-terrorism policy was focused on the prevention of this threat. In the *Schengen Convention* (1990) the need for prevention of threats to national security and public policy was claimed in the context of checks on persons at the external borders (entry and exit), when issuing an alert (SIS) and while sending information to the concerned contracting party. Also in the *Recommendation on harmonizing means of combating illegal immigration* (1995), it was noted that already at that time some measures have been adopted by the Council to ‘prevent’ unauthorized entry of migrants to the EU territory and staying there illegally. Then, the *Tampere Programme* (1999) included a call for information campaigns for the prevention of human trafficking as well as for crime prevention programmes (European Council, 1999). It argued for establishing common priorities for crime prevention in internal and external policy and stressed Europol’s role in it (European Council, 1999).

Nevertheless, the actual push towards prevention can be observed after 9/11 and especially (again) after the attack in Madrid (2004). In the *Seville Conclusions* (2002), the penal framework to prevent the facilitation of unauthorised entry, transit and residence was pointed out among the measures to be taken in the area of combatting illegal immigration and conflict prevention in the area fight against terrorism. Then, in the *European Security Strategy* (2003), it was argued that: “(...)we should be ready to act before a crisis occurs. Conflict prevention and threat prevention cannot start too early” (Council of the European Union, 2003, p. 7). Whereas so far, the EU has been arguing for taking certain measures to prevent

specific threats, here it explicitly argues for the importance of prevention and presents the presupposition that prevention is something good and necessary. Moreover, it was stated that prevention “cannot start too early” which indicates substantial certainty about its advantage and suggests that the range of tools for prevention could be quite wide. The consequence of this logic can be the assumption that migrants may be controlled already before they board the plane or ship instead of when they actually cross the border.

In the *Declaration on Combating Terrorism* (2004) the argument of prevention was used in the context of the role of Police Chief Task Force, interoperability between SIS II, VIS and Eurodac, EU Guidelines for a Common Approach to Combating Terrorism, maximising capacity within EU bodies and Member States (in counter-terrorism), mechanism of freezing assets of terrorists, strengthening security in transport systems, mechanisms of cooperation and information sharing (European Council, 2004). All of them were to support the prevention of terrorist threats. Prevention then gained more attention in the *Hague Programme* (2005) where, as pointed out in section 6.2., ‘prevention’ and not only combating of illegal migration, trafficking in and smuggling of human beings, terrorism and organised crime was claimed to be the EU citizens expectation. Prevention and suppression of terrorism were described there as “a key element in the near future” (European Union, 2005, p. 2). The *Hague Programme* (2005) argued for the need for a continuum of security measures in migration management that would be important from the perspective of prevention of terrorism in particular. Crime prevention was defined as ‘indispensable’ for the creation of the area of freedom, security and justice (European Union, 2005). It was also noted that the “scope of prevention is very wide” (European Union, 2005, p. 10), which *apriori* legitimises usage of several different measures.

In the *Prüm Convention* (2005), the argument of ‘prevention and investigation of criminal offences’ was used to justify the need for availability of fingerprint data for automated fingerprint identification system, automated searches by comparing fingerprinting data, automated searches of vehicle registration data as well as supplying of non-personal data and personal data (art. 8, 9, 12, 13, 14) (Council of the European Union, 2005b). Further, specifically for terrorism prevention, art. 16 argued for the supply of information and personal data. In the same year, prevention was also identified as the first of the four pillars of the *European Union Counter-Terrorism Strategy* (2005), aiming at preventing people from turning into terrorism by among others countering radicalisation, monitoring of travels

to conflict zones, addressing recruitment (especially through the internet) and access to training (Council of the European Union, 2005c).

Another significant document for this strand was the *Internal Security Strategy* (2010). It can be read there that:

“[o]ur strategy must therefore emphasise prevention and anticipation, which is based on a proactive and intelligence-led approach as well as procuring the evidence required for prosecution. It is only possible to bring successful legal action if all necessary information is available” (Council of the European Union, 2010, p. 22),

and that:

“[w]hilst effective prosecution of the perpetrators of a crime remains essential, a stronger focus on the prevention of criminal acts and terrorist attacks before they take place can help reduce the consequent human or psychological damage which is often irreparable” (Council of the European Union, 2010, p. 23).

In both of the quotes, the importance of prevention was firmly stressed: a high modality ‘must be emphasized’ was used in the first one and in the second it was argued that prevention is more important than prosecution. Further, the document referred to a ‘proactive’ approach and claimed the necessity of information from tools such as PNR:

“(...)it is necessary to develop and improve prevention mechanisms such as analytical tools or early-warning systems. An applicable instrument of prevention should also be a European Passenger Names Record (PNR), that ensures a high level of data protection, for the purpose of preventing, detecting, investigating and prosecuting terrorist offences and serious crime, based on an impact assessment” (Council of the European Union, 2010, p. 22).

Although the *Strategy* did not mention SIS, VIS or Eurodac analysed in the previous chapter, they all aim at controlling the people who enter the EU territory, in the case of PNR and VIS, even before they reach the EU’s border.

Both, the importance of prevention in general and the importance of information exchange for prevention, were stressed again in the same year in the *Stockholm Programme* (2009):

“The best way to reduce the level of crime is to take effective measures to prevent them from ever occurring. (...)The fight against these criminal phenomena will involve systematic exchange of information, widespread use of the Union agencies and investigative tools and, where necessary, the development of common investigative and prevention techniques and increased cooperation with third countries” (European Union, 2010, pp. 20-21).

The EU has been putting significant trust in its approach, strongly constructing it as the most adequate one. It also argued that it has been “increasingly successful” while used against terrorist organisations, albeit not necessarily against the attacks committed by the ‘lone wolves’ (Council of the European Union, 2012, p. 1). The importance of prevention was later stressed in the *Revised EU Strategy for Combating Radicalisation and Recruitment* (2014) and in the strategic guidelines from 2014 (‘Conclusions’) where preventing and combating crime and terrorism was named one of the EU priorities. In terms of the area of migration control, the *Global Approach to Migration and Mobility* (2011) named prevention and reducing of irregular migration and trafficking in human beings one of its four pillars as “[s]afe and secure migration is undermined by those who operate outside the legal framework” (European Commission, 2011a, p. 15). The argument of preventing crimes and illegal immigration was also used when establishing Eurosur (European Union, 2013b), and of terrorism prevention when providing the law enforcement authorities with access to Eurodac (European Union, 2013c).

Also during the ‘Migration Crisis’ the EU kept its focus on prevention. In the *European Agenda on Security* (2015), it was argued that:

“Terrorism in Europe feeds on extremist ideologies. EU action against terrorism therefore needs to address the root causes of extremism through preventive measures” (European Commission, 2015a, p. 14).

The document also linked the need for prevention to the use of tools and agencies:

“The EU's institutions, agencies and existing cooperation tools already provide an effective set of instruments to make EU security policy an operational reality. More synergies between EU agencies, more systematic coordination and full use of tools like the Joint Investigation Teams, can make a real difference in the prevention, detection and reaction to security threats” (European Commission, 2015a, p. 10).

The *Strategy* did not, however, stop on the EU tools but went further to argue for involving the third countries in the preventive measures: “[p]reventive engagement with third countries is needed to address the root causes of security issues” (European Commission, 2015a, p. 4). This indicates the EU’s assumption that it can go behind its borders to address its security and, as presented in Chapter 3, that it is its belief that the outside is the source of threat. While the *European Agenda on Security* (2015) especially stressed the relevance of prevention of radicalisation, it also referred to migration management:

“Common high standards of border management, in full respect of the rule of law and of fundamental rights, are essential to preventing cross-border crime and terrorism” (European Commission, 2015a, p. 6).

Then, after stressing the relevance of border control with the high modality (labelled as ‘essential’), the document pointed out the importance of common risk indicators for processing of PNR data that was argued to “help to prevent criminals escaping detection by travelling through another Member State” (European Commission, 2015a, p. 7). Europol and Frontex were again pointed out as ‘key’ in establishing these risk indicators. The *Agenda* also addressed irregular immigration:

“One of the major problems the EU is currently facing is that criminal networks exploit individuals' need for protection or their desire to come to Europe. The more that such criminal smuggling can be stopped early, the less the risk of human tragedies as seen recently in the Mediterranean. Preventive action against the facilitation of irregular migration requires better information gathering, sharing and analysis. The key lies in cooperation against the smuggling of migrants inside the EU and with third countries. The EU should make this a priority in its partnership with third countries, offering assistance to help key transit countries to prevent and detect smuggling activities as early as possible” (European Commission, 2015a, p. 17).

It is just one of many EU statements when the need to combat migrant smuggling to save migrants’ lives was claimed. It constructs the migrants as victims and the ‘preventive action’, that aims at stopping migrants from coming to the EU, as a way to save their lives.

The risk indicator and irregular immigration were again addressed in the *European Agenda on Migration* (2015). It was argued there that “[i]dentifying risk trends is increasingly necessary for effective operational preparedness” (European Commission, 2015b, p. 11)

which presents prevention as a very useful method to make the EU prepared without however discussing the side effects of it. Then, the EU again constructed the prevention of irregular migration, which in this case is provided by cooperation with Turkey, as an example of humanitarian action:

“A good example of where there is much to be gained from stepping up cooperation is Turkey. Since the beginning of 2014, Turkey has received EUR 79 million to contribute to its efforts to deal with the pressure on its refugee management system and to help prevent hazardous journeys in the Eastern Mediterranean” (European Commission, 2015b, p. 8).

It further argued that:

“[a]ction to fight criminal networks of smugglers and traffickers is first and foremost a way to prevent the exploitation of migrants by criminal networks” (European Commission, 2015b, p. 8)

Finally, the *Global Strategy for the European Union's Foreign And Security Policy* (2016) also referred few times to conflict prevention:

“We live in a world of predictable unpredictability. We will therefore equip ourselves to respond more rapidly and flexibly to the unknown lying ahead” (European Union External Service, 2016, p. 46).

This quote not only indicates the EU's awareness about the uncertainty but implies its readiness to address it.

All of the above examples of the EU discourse on prevention and pre-emption demonstrate the EU's confidence in preventive security measures. While the EU rarely addresses prevention directly (mainly used to legitimise other measures such as PNR), when it does, prevention is presented as the only accurate answer to the 'threats' it faces. It does not address the 'side-effects' of prevention, for example, concerns over human rights, civil liberties and democratic accountability, which have been noticed by scholars (see Wilson and Weber, 2008; den Boer, 2015). It has constructed prevention as the effective way of countering terrorism and the humanitarian approach to deaths at sea. The EU's perception of the prevention reflects the development of the security practices it legitimises: they are strengthened in order to stop the threat at the earliest possible moment. This understanding

of prevention further provides a strong legitimisation to these practices, similarly to the previously analysed strands.

6.5. Conclusions

This chapter has presented the analysis of the discourse that allows security practices, with four distinct strands identified. These are: ‘surveillance and data exchange as essential for the AFSJ’, ‘citizens’ expectations’, ‘need for technological advances in counter-terrorism’ and ‘prevention and pre-emption’. A key observation is that each of these strands demonstrates significant legitimising capacity. In the case of the first strand, the free movement of people is one of the most visible of the EU’s achievements and advantages for the EU citizens - thus the representation of the AFSJ as in danger can be seen as an important reason for the strengthening of the external borders. In terms of the second and third strand, citizens’ support is one of the main legitimising arguments in democratic societies and terrorism has been already successfully securitised, thus revoking its threat is strongly justifies the need for new functionalities/tools. Finally, prevention has been constructed as the only correct and appropriate measure that is not just a response to a threat but is to stop tragedies from occurring in the first place.

Four observations can be made to conclude this analysis. First, the EU has put a lot of attention on presenting the AFSJ as one of its greatest achievements and on arguing that protection of this area is in the interest of all Member States. Its protection however comes with the adoption and strengthening of new tools. So, while the creation of the Schengen zone reduced the length of borders requiring protection, the necessity of new tools and new agencies increased what strongly implies that the outside of Europe is the source of danger.

Second, while the EU’s referrals to citizens’ expectation of actions in the area of migration management, counter-terrorism and serious crime can be seen as a democratic legitimisation and EU’s responsiveness to the concerns, this does not necessarily have to be the case. The documents analysed never provided any proof of such expectations and even though some concerns can be noticed (for example, according to data from Eurobarometer), they do not present legitimisation for the adoption of certain measures since the citizens were not asked

about them. For example, there was no public debate about whether law enforcement authorities and Europol should have access to Eurodac.

Third, as presented in the previous chapter, usage of databases initially established for the purpose of border management in counter-terrorism leads to various concerns raised by the UNHCR or EDPS, such as problems with the purpose limitation. Nevertheless, the EU discourse frequently invokes terrorist threats in order to justify the need for technological advances. Doing so, not only links terrorist threat to migration and constructs migrants as potential terrorists but may also obscure the need for evaluation of proportionality of such measures which, as presented in the previous chapter, was claimed needed in counter-terrorism.

Fourth, in terms of the EU's perception of prevention, a Dutch saying offered by de Goede (2011, p. 16) seems very suitable: "*Voorkomen is beter dan genezen*" that can be translated as "prevention is better than cure". Nevertheless, as de Goede (2011) and den Boer (2015) argue, this precautionary logic raises several important questions regarding human rights, civil liberties and democratic accountability. Already in terms of counter-terrorism, it was argued that prevention is a practice of securitisation (de Goede, 2008) and, while not achieving its goal, may cause criminalisation of radical ideas, stigmatisation of groups of people and damage social policy (Bossong, 2014). This is why a need for scrutiny over preventive action was claimed by Bossong (2014) and it is evident that it should not only apply to counter-terrorism but to migration policy as well.

7. Conclusions and critical evaluation

This thesis addressed a widely analysed topic of securitisation of migration in the EU (see for example Bigo, 2002; Karamanidou, 2015; Lazaridis and Wadia, 2015; Squire, 2015; Léonard and Kaunert, 2019). It focused on the connection between counter-terrorism, migration and border control policies and aimed at contributing to this literature by addressing in particular the securitisation of migration occurring by its association with terrorism. In order to provide a more complex picture of the securitisation of migration, it analysed this phenomenon from two perspectives: discourse and practice, as focusing only on discourse would not reveal some of the securitisation dynamics occurring through everyday practices. This chapter is divided into two sections. The first section presents the main conclusions of this thesis and discusses its limitations. The second section explores areas for further research.

7.1. Reflections on the securitisation of migration

While recognising the importance and influence of the Member States, this thesis focused on the EU as its primary subject of analysis which covers the period between 1986 and 2017. This period was selected because it allows for a long-term analysis covering time around several significant events for the area of counter-terrorism, migration management and border control. First, starting with 1986, which is the year of the adoption of the *Single European Act*, permitted inclusion of the period of the establishment of the single market, removal of checks at the internal borders and intergovernmental cooperation such as the Trevi Group. Moreover, it led to the possibility of seeing the difference before and after the 9/11 attack which is the next important moment in the development of these policies. The post-September 11 period was then followed by the time of the ‘Arab Spring’ and ‘Migration Crisis’. Concluding the analysis in 2017 was motivated by the end of the refugee relocation scheme (26 September 2017), which is understood here as the end of the ‘Migration Crisis’ and discourse adopted in the direct aftermath of the events of 2015.

The analysis in this thesis was conducted from different perspectives. It started with a historical analysis of the evolution of migration, counter-terrorism and border control

policies. The thesis then moved to discourse before focusing on securitisation through security practices. Finally, it again addressed language but, in this case, the discourse that legitimises security practices. The study was underpinned by securitisation theory. As presented in Chapter 2, the traditional securitisation theory of the Copenhagen School (CS) required a loosening of some of its assumptions to adapt it for the purpose of adopting it to the context of the EU. Thus, in addition to this traditional understanding of securitisation theory, also the concept of collective securitisation was presented. Finally, applying the Copenhagen School's approach, the concept of collective securitisation and the Paris School's approach allowed for conducting a wider analysis of securitisation of migration in the EU. This approach was to allow answering two main questions asked in this thesis:

1. How are counter-terrorism, migration and border control policies connected in the EU?
2. How is the intersection of counter-terrorism with migration and border control policies leading to the securitisation of migration in the EU?

The historical analysis of the evolution of the policies recognised that Coolsaet's (2010) claim about an event-driven EU agenda applies not only to counter-terrorism policy but also to migration management and border control. Certain events were in that chapter recognised as 'windows of opportunity' (see Bossong, 2008) for legislative projects. Most of all, the chapter set the scene for the following analyses as it indicated that migration can be constructed as a threat, in particular in connection to terrorism, in two ways: through discourse and through security practices.

In order to analyse the EU discourse on migration, terrorism and border control, a specific technique of discourse analysis was adopted. As stated in Chapter 2, there is not one definition of discourse analysis or one technique. This thesis has drawn on Baker-Beall's approach (2010), stressing the importance of historical context via Discourse-Historical Analysis. As a result, the established technique considered key words and phrases, linguistic features such as modality, structural oppositions and aggregation, intertextuality, interdiscursivity as well as the historical context. Through its application, the following strands were identified: 'Immigration as a humanitarian problem'; 'Immigration as a matter of security'; 'Immigration as both a problem and a benefit to the EU'; 'Terrorism as an external threat'; 'Terrorism as a major security threat'; 'Open Europe as a threat'; 'Border as a place of defence' and 'Border control as an important tool to fight terrorism'.

A few observations can be made regarding this analysis. First, all of these strands are strongly interconnected and together evoke an understanding of the EU as a cherished, advanced, 'open' community that is threatened by the external world and thus needs to be defended, especially on the borders. In this understanding, terrorists are an undeniable threat, whereas the understanding of migration is more complex. The strands of discourse on migration demonstrate a certain duality of EU's perception of migrants: humanitarianism-security and problem-advantage. While some advantages of migration were recognised in the discourse and the responsibility of providing help was acknowledged, migrants were still constructed as 'others' coming from outside. Thus, there was visible a fear that they can abuse the community privileges, such as job opportunities or social benefits, but also, can pose a direct threat to security as they may be terrorists. This then prompted the growth of constant, preventive control and surveillance.

Second, it was claimed that an important part of the EU discourse is the opposition between EU citizens and third-country nationals as well as between 'good migrants' understood as asylum seekers and legal migrants on the one hand, and 'bad' migrants, or irregular/illegal migrants who have been both criminalised and victimised on the other. The criminalisation of migration took place among others by connecting them to transnational crimes and terrorism, and the usage of certain terms, for example, 'combating illegal immigration'. Both terms 'illegal' and 'combating' strongly criminalise migration. While the usage of the first one was already criticised by the Council of Europe (Guild, 2010) and its inappropriateness recognised by the EU, there are still documents referring to 'illegal' and not 'irregular' immigration. Thus it is claimed here that certain linguistic carefulness is fundamental.

For the purpose of securitisation through practices, four tools were selected: Schengen Information System (SIS), Visa Information System (VIS), Eurodac and Eurosur, as well as cooperation between two agencies: Frontex and Europol. This chapter (5) claimed an increase of impediments to irregular migration, an increase of use of technology and biometrics as well as the blurring of the boundaries between migration management, criminal law and counterterrorism policy. All the analysed tools were recognised as producing knowledge about security and also, as claimed by Wittendrop (2017, p. 133, following Van Houtum and Strüver 2002), examples of rebordering: "[b]orders are regarded (...) as spatio-temporal constructs that produce and are the product of distinct formations of power and space".

Following Balzacq's (2008) definition, the systems analysed and the cooperation between Frontex and Europol were also claimed to be securitising tools. In doing so, Chapter 5 considered Balzacq's (2008, p. 79) claim that "not all instruments of securitization are securitizing tools" as well as Léonard's (2010) criteria to identify securitising tools: practices being commonly used for tackling problems generally considered as security threats and extraordinary practices. It led to reflection on Boswell's (2007) argument about using border control tools for counter-terrorism purposes but not vice-versa. It was claimed that, whereas counter-terrorism tools as such were not used in border management/migration control, some elements, such as usage of biometrics or drones, which have been used to address security threats, have been added to the analysed tools. Moreover, the crucial change in the character of these tools was caused by granting access to them to Europol and law enforcement authorities - these actors have been commonly responsible for tackling problems generally considered as security threats. In terms of the distinction between securitising tools and tools of securitisation (Balzacq, 2008, p. 80), questions about the perception of securitisation as a complete process, thus having an 'end', were asked. It was noted that in the context of the EU, the securitisation may be rather seen as a process requiring adjustments or reinforcement - it may 'spiral over time' (see Bello, 2020; Léonard and Kaunert, 2020; Panebianco, 2020).

The final analytical chapter (6), following Bigo's (2014) claim, shifted the attention back to the analysis of discourse but this time, to discourse invoked to legitimise analysed security practices. It thus focused on other ways (apart from the certain representations of migration, terrorism and border control presented in Chapter 4) in which the EU has justified the adoption of security practices. Four main strands were identified in this regard: 'surveillance and data exchange as essential for the AFSJ', 'citizens' expectations', 'surveillance and data exchange as key for counter-terrorism' and 'preventive and pre-emptive practices'. All of them have been claimed to demonstrate significant legitimising capacities.

As argued by Bigo (2001), and Wæver (2013), analysis of both discourse and practices may reveal different patterns of securitisation. In this context, it should be pointed out that first, focusing only on discourse without addressing security tools would not reveal the differences between the EU discourse on saving lives and the actual way in which *Eursour* is used. While already from the perspective of discourse it could be seen that that goal may not be the priority, it is a key example that highlights the importance of understanding how security

tools are used by security professionals. Second, some similarities can be seen between the analysis of discourse and practices. In both the discursive construction of migrants and the usage of tools in border control, it is visible that the perception of the connection between migration and terrorism has been strengthened. While from the perspective of both discourse and practice, before the attack in Madrid (2004) migration was perceived as a security threat not directly linked to terrorism, afterwards, migrants have begun to be constructed as a possible terrorist threat through linguistic constructions and by adding the purpose of countering terrorism to the border control tools. Third, while from the perspective of discourse, the construction of migration as a humanitarian problem was visible, it is less obvious in terms of practice. While some examples of it could be seen in, for instance, addressing the problem of detection of small and unseaworthy vessels in Regulation 2019/1896, the general tendency in security practices is to strengthen their capabilities to combat serious crime and fight against terrorism.

This thesis has thus demonstrated that migration, terrorism and border control are connected through discourse and security practices. The analytical chapters presented how migration has been securitised in the EU through both of them. Nevertheless, this study has its limits. First of all, the selection of the EU documents should be addressed. While this selection was based on the desire to uncover the discourse of the EU as a whole, not specific countries or politicians, it comes with constraints as it thus does not include any documents produced by the European Parliament. Moreover, the dataset includes only written adopted/presented documents; it does not extend to speeches of EU politicians and officials, for example, analysis of the debates in the European Parliament. Including these sources could reveal different strands or shift their attention. It should be also recognised that the EU policies are not born 'in a vacuum' and not only the influence of the Member States should be recognised but also of media, public debate and national politicians. Including the discourse created by these actors would allow for further research of the EU responsiveness, which could significantly impact the analysed EU discourse.

Also, while this thesis provides a long-term analysis of the intersection between counter-terrorism, migration and border control policies, since 2017, the end date of the discourse analysis, some important documents have been presented, for instance, *A Counter-Terrorism Agenda for the EU: Anticipate, Prevent, Protect, Respond* (2020) and a *New Pact on Migration and Asylum* (2020). Whereas concluding the analysis of discourse in 2017 and the

analysis of the security of practices in 2019 was motivated by focusing on discourse and practices produced and directly impacted by the events of the ‘Migration Crisis’, reviewing the potential changes presented in the documents is important for future research.

Finally, in terms of securitisation through practices, the analysis of selected tools is based on the understanding of how these tools work based on the EU documents and findings of current academic literature. The analysis of Eurosur, however, very clearly demonstrated how the description of tools included in its Regulation and the practice of using the tool can differ. Therefore, in order to properly assess their contribution to securitisation, it would be necessary to investigate how they are actually used through interviews with different security actors.

7.2. Perspectives for further studies: the importance of proportionality, legitimacy and effectiveness

While this thesis aimed at uncovering the dynamics of securitisation from the perspectives of discourse and practice, it was not its goal or intention to judge and evaluate the EU approach to migration, terrorism and border control due to the scope of this thesis. Nevertheless, it can be assumed, following Buzan, Wæver and de Wilde (1998, p.29), that “security should be seen as negative, as a failure to deal with issues as normal politics”, even though, in some cases, the high necessity of securitisation can be claimed (like in the case of climate change). Thus, in regard to the securitisation of migration and transformation of border control tools (for example, expansion of the purpose of tools and granting access to the law enforcement authorities and Europol), it is claimed here that studies of the proportionality, legitimacy and effectiveness of these tools are crucial and should be considered as an important avenue of future studies.

Floyd (2019, p. 393) argues that securitisation can be justified from a moral perspective if there is:

“a just cause (consisting of both a real threat and a just referent object), that it is a proportionate response to a given threat, that securitising actors are sincere in

their intentions and that securitisation has a reasonable chance of succeeding in achieving the just cause”⁶⁷.

Without downplaying the relevance of this claim, its usage or operationalisation in line with the Copenhagen School would be difficult due to the subjectivity of security threats. However, it also indicates the importance of proportionality and effectiveness. While legitimacy could be understood as the audience’s acceptance of a securitisation move⁶⁸, it is more problematic to assess the EU security practices in the context of proportionality and effectiveness. The importance of their assessments can be also indicated by the fact that according to *Eurobarometer 432: Europeans’ attitudes towards security*, a majority of European citizens (55%), think that fundamental rights and freedoms have been restricted as a result of current security policies (Pavone *et al.*, 2018, p. 639). Pavone *et al.* (2018) suggest that these findings can mean that citizens consider current security policies as inadequate.

In this matter, both scholars and the EU struggle with the proper evaluation of security practices. As Hayes and Jones (2013, p. 28) observe working within the collaborative research project SECILE, while there are in the EU mechanisms to evaluate them:

“resources are at best underutilised and at worst applied in a manner that ultimately ignores crucial issues of civil liberties and human rights, necessity and proportionality, accountability and democratic control”.

They point out a few issues regarding their evaluations: failure to include any provisions for review of the legally binding measures, the fact that these matters are largely shielded from public view and that the European Parliament was denied a meaningful role.

In terms of proportionality, Cinoglu and Alton (2013) note that migration control instruments may be appropriate tools to fight against international terrorism as it becomes more trans-national. However, they also argue that terrorist attacks are most often committed by persons who have a regular residence permit and even citizenship of the country of the attack and that limiting legal entry can negatively affect the basic rights and freedoms of the immigrants and refugees (see also Emmert, 2008; Bigo *et al.*, 2015; Funk and Parkes, 2016; Schmid, 2016). Mythen and Walklate (2008, p. 233) claim that:

⁶⁷ Just Securitisation Theory (JST)

⁶⁸ It still would prompt questions about the audience acceptance, for example, what if majority not the whole audience accept it (see Floyd, 2019).

“institutional fixation with the catastrophic possibilities of future terrorist attacks is just one dimension of a ‘politics of fear’ in which worst-case scenarios drive the introduction of tighter law and order measures”.

They point out that, in counterterrorism, there is a climate of not knowing enough and being aware of it is what decides about a precautionary approach (Mythen and Walklate, 2008). It could be then questioned, how some measures can be proportional if the actual threat is unknown.

With respect to the legitimacy of these practices, Wagner’s (2005) paper on the topic of European Security and Defence Policy, offers a set of criteria for measuring this aspect of EU policy. Wagner (2005) suggests analysing it on four levels: assessment of public support (effective governance/ output legitimacy), national democracy (participatory procedures/ input legitimacy), European Parliament (supranational level) and international law. Also, Chistyakova (2015) refers to input and output legitimacy while drawing upon three democratic theory perspectives on legitimate political authority and distinguishing apart from input, output also rights legitimacy. The input legitimacy emphasises the expression of the popular will (classical political theory), the output legitimacy is a state-centred perspective that originates from Hobbesian which refers to effective protecting, while the rights legitimacy which is a liberal perspective, focus on equality, minority protections, and the protection of individual freedoms and human rights. Chistyakova (2015, p. 128) also point out that:

“robust evaluation of the effectiveness of counter-terrorism measures (which) is impeded by the lack of provisions for review, lack of information from Member States, and the difficulty of locating some of the relevant information or even knowing if it exists”.

Measuring the effectiveness of counter-terrorism is also a problematic task because as Brzoska (2011, p. 2) notes:

“major attacks are rare [so] there is little evidence to go on to find the best way to counter terrorism (...) [and] the absence of a major terrorist attack is no useful indicator of the success of counter-terrorism (...)”

Léonard (2015, p. 327) likewise points out, how difficult it is to evaluate the effectiveness of any specific border control in combating terrorism, giving an example of the security checks carried out before a visa is delivered to an applicant as part of the Schengen cooperation – it would be necessary to compare a list of all terrorists applying for a Schengen with the list of all those who have been refused a visa because they have been correctly identified as a terrorist, what is not possible. On the other hand, Martin-Mazé and Burgess (2015, p. 104) point out that the effectiveness of anti-terrorism can be understood as a way of legitimisation that is pursued by European security agencies. However, this does not ease the measurement of the security policies, but demonstrate somehow the paradox of the EU: even if something is not properly measured, it can be considered as effective and thereby legitimise this policy.

Considering the above-mentioned need for research, another area for further studies could move the discussion forward by studying the means of desecuritisation (see Buzan, Wæver and de Wilde, 1998; Hansen, 2012; Austin and Beaulieu-Brossard, 2018) of migration, not only through discourse. An interesting starting point would be the practical suggestions made by Vaughan-Williams (2015, ch. 6) on how border violence should be addressed. Among them can be mentioned for instance: the demilitarisation of European border security and the disaggregation of militarized and humanitarian logics of governmentality; public campaigns to highlight the violence and injustices endured by migrants in the name of ‘European’ citizenship and security; the desecuritisation and repoliticisation of migration as an issue in contemporary political life (Vaughan-Williams, 2015, ch. 6, p. 39).

Despite these interesting areas for further research, this particular doctoral thesis made an original contribution to knowledge by offering a long-term analysis of the connection between counter-terrorism, migration and border control policies in the EU. It addressed the intergovernmental cooperation as well as the late events of the ‘Migration Crisis’ in order to present the evolution of this connection which has been significantly strengthened in face of the increased flow of irregular migration in 2015. This thesis addressed the securitisation of migration through the association with terrorism from two perspectives: discourse and practice, demonstrating the dual perception of migration, their construction as a possible security threat and the increasing blurring of lines between counter-terrorism, migration and border control policies. It finally also identified discourse used by the EU to legitimise

analysed security practices beyond the discursive constructions of terrorists, migrants and border control.

Annexe 1. List of analysed documents

Lp.	Date	Document selected for analysis
Pre-September 11th 2001 Period		
1.	17 February 1986 ⁶⁹	Single European Act, Official Journal of the European Communities No L 196/1, 29.06.87
2.	28 April 1987	Declaration of the Belgian Presidency: Meeting of Justice and Interior Ministers of the European Community, in Brussels, on 28 April 1987
3.	15 December 1988	Conclusions of a Meeting of the Cabinet held at 10 Downing Street on Thursday 15 December 1988 at 10.30 am, Copy no 78, The National Archives' reference CAB 128/91/9 ⁷⁰
4.	June 1989	'The Palma Document' Free Movement of Persons. A Report to the European Council by the Coordinators' Group (Madrid, June 1989)
5.	15 June 1990	Convention determining the State responsible for examining applications for asylum lodged in one of the Member States of the European Communities 97/C (254/01), Official Journal of the European Communities No C 254/ 1, 19.08.1997
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11.	15/16 October 1999	Tampere European Council 15 and 16 October 1999 Presidency Conclusions

⁶⁹ Signed in: Luxembourg (Luxembourg) 17 February 1986 and in The Hague (The Netherlands) 28 February 1986.

⁷⁰ Excluded from the discourse analysis.

⁷¹ Excluded from the discourse analysis.

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Post-September 11th 2001 Period		
13.	21 September 2001	Conclusions and Plan of Action of the Extraordinary European Council Meeting on 21 September 2001, SN 140/01
14.	13 June 2002	Council Framework Decision of 13 June 2002 on combating terrorism (2002/475/JHA), Official Journal of the European Communities L 164/3, 22.06.2002
15.	21/22 June 2002	Presidency Conclusions Seville, 21 and 22 June 2002, 13463/02
16.	18 February 2003	Council Regulation (EC) No 343/2003 of 18 February 2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national, Official Journal of the European Union L 50/1, 25.02.2003
17.	12 December 2003	A Secure Europe in a Better World: European Security Strategy
18.	25 March 2004	Declaration on Combating Terrorism
19.	15 June 2004	EU Plan of Action on Combating Terrorism, 10586/04
20.	26 October 2004	Council Regulation (EC) No 2007/2004 of 26 October 2004 establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union, Official Journal of the European Union L 349/1, 25.11.2004
21.	6 December 2005	A Strategy for the External Dimension of JHA: Global Freedom, Security and Justice, 15446/05
22.	27 May 2005	Prüm Convention, 10900/05, 7.07.2005
23.	4/5 November 2005	The Hague Programme: Strengthening Freedom, Security and Justice in the European Union (2005/C 53/01), Official Journal of the European Union C 53/1, 3.3.2005
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27.	2 December 2009	The Stockholm Programme — An Open and Secure Europe Serving and Protecting Citizens (2010/C 115/01), Official Journal of the European Union C 115/1, 4.5.2010

28.	March 2010 ⁷²	Internal Security Strategy for the European Union: ‘Towards a European Security Model’
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29.	18 November 2011	Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions ‘The Global Approach to Migration and Mobility’ {SEC(2011) 1353 final}, COM(2011) 743 final
30.	23 April 2012	Preventing lone actor terrorism - Food for thought, 9090/12
31.	26 June 2013	Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (recast), Official Journal of the European Union L 180/60, 29.6.2013
32.	26 June 2013	Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast), Official Journal of the European Union L 180/31, 29.6.2013
33.	26 June 2013	Regulation (EU) No 603/2013 of the European Parliament and of the Council of 26 June 2013 on the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of Regulation (EU) No 604/2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person and on requests for the comparison with Eurodac data by Member States' law enforcement authorities and Europol for law enforcement purposes, and amending Regulation (EU) No 1077/2011 establishing a European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice (recast), Official Journal of the European Union L 180/1, 29.06.2013
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35.	15 May 2014	Regulation (EU) No 656/2014 of the European Parliament and of the Council of 15 May 2014 establishing rules for the surveillance of the external sea borders in the context of operational cooperation coordinated by the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union, Official Journal of the European Union L 189/93, 27.06.2014

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37.	26/27 June 2014	European Council 26/27 June 2014 Conclusions, EUCO 79/14, 27 June 2014
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