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**INTERNAL SECURITY AND THE NEW  
BORDER MANAGEMENT MODEL OF THE  
EU: MIGRATION-SECURITY NEXUS**

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## ABSTRACT

### INTERNAL SECURITY AND THE NEW BORDER MANAGEMENT MODEL OF THE EU MIGRATION SECURITY NEXUS

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This is a thesis about the changing internal security conceptualizations and the new border management model of the European Union (EU), its effects on third countries and resultant power relations. Although migration is a fact as old as human history, the way the issue is represented varies in time. Especially after 1970s, with the influence of recession experienced in Europe, migration has been formulated as a tool that should be managed well, which otherwise would pose a serious problem for the host countries. Indeed, lately it has evolved to being a security ‘problem’. This thesis questions the meaning and role of security; indeed it argues in line with a Foucaultian approach, security is a tool to govern populations. By linking migration and security the EU is also developing new forms of governing populations in Europe and beyond. Turkey, as a country furthering accession talks with the EU is becoming a part of the new border management model of the EU. This requires change in terms of the mentality and the practices of security bureaucracy in Turkey, which creates changing power relations vis-a-vis asylum seekers and migrants. Legal amendments, twinning projects are all tools for governing the conduct of Turkish security agents. Projects implemented with the EU funds to construct reception and deportation centres are an extreme case signifying the change of policy and practice in Turkey.

Keywords: EU, security, migration, border, asylum

## ÖZ

### AVRUPA BİRLİĞİ İÇ GÜVENLİĞİ, YENİ SINIR YÖNETİMİ MODELİ: GÖÇ-GÜVENLİK EKSENİ

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Bu tez Avrupa Birliği'nin değişen iç güvenlik kavramsallaştırması ve yeni sınır yönetimi modeli, üçüncü ülkelere etkisi ve sonuçta doğan güç ilişkileri üzerinedir. Göç insanlık tarihi kadar eski bir gerçeklik olmasına karşın, zaman içinde farklı şekilde resmedilmiştir. Özellikle 1970ler sonrasında, Avrupa'da yaşanan resesyonun da etkisiyle göç çok iyi bir şekilde yönetilmesi gereken, aksi takdirde alıcı ülkeler için ciddi sorunlar doğurabilecek bir husus olarak formüle edilmiştir. Dahası, son yıllarda bir 'güvenlik' sorunu haline gelmiştir. Bu tez güvenlik kavramının anlamını ve rolünü sorgulamaktadır, dahası Foucault'un fikirleri paralelinde, güvenliğin kitleleri yönetmede bir araç olduğunu savunmaktadır. Göç ile güvenlik arasında bir bağ kurarak AB Avrupa'daki ve ötesindeki kitleleri yönetmek için yeni yönetim şekilleri geliştirmektedir. Türkiye, AB ile üyelik müzakereleri yürüten bir ülke olarak, AB'nin yeni sınır güvenliği modelinin bir parçası haline gelmektedir. Bu ise güvenlik bürokrasinin zihin dünyasında ve pratiklerinde bir değişim gerektirmektedir. Bu da mülteciler ve göçmenler açısından değişen güç ilişkileri doğurmaktadır. Mevzuat değişimi, eşleştirme projeleri, en iyi örnekler Türk güvenlik bürokrasinin uygulamalarını yönetmekte kullanılan araçların bazılarıdır. AB fonları ile gerçekleştirilen karşılama ve geri gönderme merkezleri inşasına yönelik projeler politikada ve uygulamadaki değişimin en uç örneklerindedir.

Anahtar Kelimeler: AB, güvenlik, göç, sınır, iltica

*To My Loving and Much-Loved Parents*

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## **LIST OF ABBREVIATIONS**

AFSJ	Area of Freedom Security and Justice
APD	Accession Partnership Document
CAHAR	ad hoc Committee of Experts on the Legal Aspects of Refugees
CEAS	Common European Asylum System
CEEC	Central and East European Countries
CoU	Council of Europe
CSS	Critical Security Studies
EC	European Communities
ECJ	European Court of Justice
EDIU	European Drugs intelligence Unit
EMU	Economic and Monetary Union
ENP	European Neighbourhood Policy
EU	European Union
EURODAC	European Automated Fingerprint Recognitions System
EUROJUST	The EU's Judicial Cooperation Unit
EUROPOL	The European Police Office
FRONTEX	European Agency for the Management of Operational Co-operation at the External Borders
IBM	Integrated Border Management
IGC	Intergovernmental Conference
IPA	Instrument for Pre-accession
JHA	Justice and Home Affairs

NAP	National Action Plan
NATO	North Atlantic Treaty Organization
NPAA	National Program for the Adoption of the Acquis
PNR	Passenger Name Record
SEA	Single European Act
SIC	Schengen Implementing Convention
SIRENE	Supplementary Information Request at the National Entry
SIS	Schengen Information System
TEC	Treaty Establishing the European Community
TEU	Treaty on European Union
ToA	Treaty of Amsterdam
TSS	Traditional Security Studies
UN	United Nations
UNHCR	United Nations High Commissioner for Refugees
US	United States
USSR	Union of Soviet Socialist Republics
VIS	Visa Information System

# CHAPTER I

## INTRODUCTION

### 1.1 INTRO

This is a thesis about the European Union (EU)'s efforts to construct an Area of Freedom, Security and Justice (AFSJ) and the changing notion of internal security as a result of which new border management model is being imagined, which has effects on third countries and creates changing power relations. More specifically this work is interested in, as a result of these developments, the link being established between borders, security and migration in the European context and focuses on the methods the EU adopts as part of this border management model to tackle the question of illegal migration, especially through externalizing its border management, asylum and migration policies.

Although migration is a fact as old as human history, the way the issue has been represented varies in time. Traditionally dynamics of migration have been explained with the help of pull and push factors. Especially after 1970s, with the influence of recession experienced in European economies, migration has been represented as a tool that should be managed well, which otherwise would pose a serious problem for the host countries. Since then immigration and asylum became a 'problem' for Europeans more and more, if one can decide by observing the attention of media, politicians and bureaucrats, or the legislative activism in this field. In the last two decades, it became a cottage industry to talk about 'boat people' captured while trying to smuggle into the territories of the EU, the costs incurred by immigrants on European economies, the 'massive rise' in numbers of

asylum seekers, last but not least the threat these ‘aliens’ might pose to European security.

Parallel to the increasing controversy around migration at nation-state level, inter-governmental cooperation efforts culminated in bringing these issues to the domain of the EU. The then third pillar of the Maastricht Treaty, part of which was transformed to the first pillar of the EU with the Treaty of Amsterdam (ToA), covered policy areas of, *inter alia*, border control, visa, asylum and immigration. Therefore, the EU is now an established actor in this field. On the other hand, the EU is often described as a *sui generis* polity and a civilian power that goes beyond the Westphalian nation-state and its self-interest oriented politics. The project aims to inquire the ways and means migration has become a part of the security discourse of the EU as a result of which new forms of governing is being produced. While doing this it will benefit from a theoretical conceptual toolkit inspired by Critical Security Studies, European integration, European security and migration literatures. It will critically engage with the increasing literature on Europeanization, externalization and securitization of migration in Europe. In doing that, it will argue for contextualizing and historicising both migration and security in European context, contrary to the prevailing discourse that represent migration as a ‘new’ problem that pose an imminent challenge to the security of European nations. It will also question if there is a particular difference between the practices on migration and security of a European nation state and the EU, what all these developments mean on the ground especially for asylum seekers, illegal immigrants and societies at large?

## **1.2 FRAMEWORK OF ANALYSIS: LINKING MIGRATION AND SECURITY WHILE CONSTRUCTING AN AREA OF JUSTICE, SECURITY AND FREEDOM**

Movement of people is not a matter solely of the 20<sup>th</sup> or the 21<sup>st</sup> centuries; it is as old as human history. Moreover, migration on its own does not have a positive or

a necessarily negative meaning (Kane, 2002). However, with the advent of nation-states and delineation of borders between them, which provide the basis of the existing political and international system, with indispensable components, sovereignty and citizenship, movement of people is problematised. Indeed borders and controlling movement of people became crucial tools of states to exercise power in imagining nations. As the modern state is built on the notion of citizenship, there is a categorical relationship between the foreigner and the modern state, where the foreigner is the exception to the rule, many times covered by different legal regulations than the citizen.

The Penguin Dictionary of International Relations defines immigration as “the movement of people from their home state to another state, usually to seek employment, to improve wages, to join family member or to escape from adverse living conditions” (Evans and Newham, 1998: 242). Whereas it describes the refugee as the person “who is forced to move from his or her country of origin or of residence” and it correctly continues that “refugees are an anomaly in state-centred international law since they are technically stateless until asylum is granted” (Evans and Newham, 1998: 470). Thus, the main difference between the two is whether the movement from one country to another is based on force or willingness. These two categories are also covered by international law separately. International law for refugees has been institutionalized by the 1951 UN Convention Relating to the Status of Refugees (or Geneva Convention) and the 1967 Protocol Relating to the Status of Refugees (or New York Protocol), according to which to be considered as a refugee, one should be forced out of his country “owing to a well-founded fear of persecution for reasons of race, religion, nationality, membership of a particular social group or political opinion” (Mattila, 2000: 57). Yet, it was highly under the influence of the Cold War situation, when granting refugee status only to people with an individualized threat of persecution. On the other hand, for instance, people under the continuous threat of environmental hazards or economic poverty are not eligible for refugee status, since theoretically they are not ‘forced’ to move.

Besides the refugees, immigrants have also been included in the domain of international law through several conventions. Since migration mainly has economic connotations, International Labour Organization has been active in the field. Among others, the Migration for Employment Convention of 1949 and the Migrant Workers Convention of 1975 are principal ones (Evans and Newham, 1998: 57). Also, the International Convention in the Protection of the Rights of All Migrant Workers and Members of Their Families, adopted in 1990 by the UN General Assembly, which is a clear effort to reassert the link between human rights and migrants, could only come into effect in 2003 since the number of countries ratifying it remained less than twenty for more than a decade (Evans and Newham, 1998: 57).

Therefore, immigration and asylum are not novel issues, they have a long history and are more recently covered by international law. However, lately it is often claimed that with the accentuating pace of globalisation and increase in the speed and availability of information as well as transportation, coupled with the increase in world population, the widening gap between regions in economic terms, security problems in several parts of the globe, numbers of immigrants and refugees from 'periphery to core' also increased. Europe, particularly after the Second World War, has been one of the major destinations for immigrants. Peter Stalker (2002: 152) categorizes these people in Europe under four groups; labour migrants, families of these labours, undocumented workers who are not legally granted the right to reside, i.e. illegal immigrants, and finally asylum seekers or refugees.

In the post-war period economically ruined European continent needed extra manpower to regain its power. Therefore in the early 1950's and 1960's immigration was highly related to economics and increasing demand of developing markets of Europe for cheap labour (Dunkerley et al, 2002: 82). However, with the 1970's the interest to the issue augmented. Clearly the situation was somehow linked to the economic recession felt in 1973. Yet, despite the

increasing attention to the issue, the conceptualisation of immigration did not change till 1980's. Nevertheless, from 1980's onward a shifting conceptualisation is evident. Simultaneously the political structure of Europe has also been going through change; on the one hand far right political movements were becoming more influential, while the European integration was gaining momentum on the other hand, establishing a single market, encouraging the movement of factors of production, including labour freely within Europe.

It is clear that within the European context through time, immigration had gained differing connotations and meanings, both depending on the economic developments and ideologies of ruling political elites. While the issue is mostly seen as a socio-economic issue till 1980's, Huysmans claims that during 1980's "[p]olitical rhetoric...increasingly linked migration to the destabilization of public order" (Huysmans, 2000b: 754). In the same vein, in her interesting article on the German policy of immigration, Schmidt asserts that the German government who used to admit large number of migrants since 1950, coming to the 1990's "argued that immigration of people from alien cultures is not in the national interest as social and political stability are tied to the national homogeneity of the state" (Schmidt, 1999: 99). She also claims that immigrants were shown as the cause of domestic social and economic problems by the media as well as politicians. Moreover, she stresses that in Germany the official argument calls for restrictive measures in order to sustain 'public order'. However, "this is conveyed through a language and imagery of threat: the lack of space and resources to accommodate more foreigners, the jeopardizing of social peace through... foreign domination and the inability or unwillingness to integrate" (Schmidt, 1999: 102).

It is possible to see similar developments in France, another major power of Europe, which are discussed in detail in Ruger Brubaker's work (2001). Thus, the nation building and the identity formation is heavily build on the process of exclusion as clear from the two biggest countries of Europe, which is nowadays maintained through the discourse of threat from foreigners, facilitated by the 11

September 2001 events. In such an environment, the distinction between economic migrants and refugees became blurred, putting the legitimate rights of refugees in dangers. In this context, Gil Loescher and James Milner (2003: 599) bluntly express that “in the ... sensational press and media, [after September 11] asylum seekers are associated with terrorism, radical Islam and political violence.”

On such a backdrop, a new actor as regards borders, migration and asylum was being formulated: the EU. Several authors assert that in the European context, security discourse’s annexation of immigration reveals parallelism to the increase in integration process of the EU (see Huysmans, 2000; Kostakopoulou, 2001; Bigo 2002). As already mentioned there was already a discourse of threatened public order in European states and the increasing integration at the EU level did not ease this but transformed and sometimes accentuated this. Some of the crucial developments regarding migration policy of the Union has been the creation of the common market, followed by the Schengen Agreements’ coming into force in 1995 enabling free circulation in Schengen countries. As Stalker puts it, with the impact of the discussions on free circulation, “from mid 1980’s the countries of the EU became more concerned about their common external frontier and struggled to develop a common policy on non-EU immigrants” (Stalker, 2002: 166). Therefore, increasing freedom for European citizens meant increasing barriers and control for non-Europeans. While with 1980’s several inter-governmental working groups were formulated to co-ordinate the migration policies of member states, after the Single European Act in mid 1980s and the Schengen Agreements, migration became an official concern of the Union when the Maastrich Treaty was signed creating a third pillar of justice and home affairs (Huysmans, 2000b: 755).

The unification of the ‘European space’ started during the 1980s with the Schengen Agreements and the Single European Act, which was later on represented in dominant political discourse as a major positive achievement,

which had nevertheless some negative implications such as increasing chance for crime and all forms of illegal activity, and not the least ‘flux of unwanted aliens’ intruding the space of security, freedom and justice. In discussing the evolution of a common immigration and internal security policy Lavenex states that

[t]he rules operating in the intergovernmental groups [of the Schengen and the Ad Hoc Group on immigration] were those of technocracy, secrecy and urgency. The rules of technocracy must be understood in contrast to political modes of decision making and conflict resolution....the term “technocratic” refers to the rule of non-political bureaucratic experts acting outside of the public space (Lavenex, 2001: 92).

Thus, international migration, with a special emphasis on the undocumented one, started to be framed as a security issue in an environment dominated by security bureaucrats. The solution the EU produced for tackling these, is ‘externalizing’ the problem, meaning that the issue is started to be seen as something to be tackled outside the ‘area of freedom, security and justice’ and when necessary with ‘extraordinary measures’.

As the cooperation intensified among the member states, “they did so in a “frame” that was heavily influenced by security concerns and the perception of “unwanted” migration as a threat” (Geddes, 2003: 24). Until the formulation of Maastricht, the cooperation on migration was highly informal and out of the domain of the Treaty, built on intergovernmental agreements, with little enforcement power, yet based on the cooperation of security bureaucracy to exchange their common concerns. Maastricht, while providing a more formal ground for common action, however, still framed the issue as a matter of ‘common interest’ rather than a ‘common policy’. However, with the ToA the sections related to borders, visa, immigration and asylum of the Third Pillar on JHA were moved to the first pillar. This meant the ‘communitarization’ of the issue as opposed to the intergovernmental approach adopted earlier (Geddes, 2003). ToA also included the declaration to make EU as ‘an area of freedom,

security and justice' which was a major reference for the following policy activism in this field.

Parallel to the increasing integration, the distinction between internal and external security is blurred for European states. Enabling free movement inside the community, lead to the reasoning that external borders should be strengthened and differing practices of members should be harmonized. Once such efforts gained momentum, critical views were not absent. Oft-used phrase 'Fortress Europe' has been coined as a result of this process. Huysmans, in this context correctly asserts that "the linking of internal and external borders of the European Community has played an important role in the production of a spill over of the socio-economic project of the internal market into an internal security project" (Huysmans, 2000b).

The third pillar, under the pillar structure of the Maastricht Treaty, has been a challenging area for the member states with a classical notion of sovereignty, as it was comprised of the policy fields where the national states are most jealous of sharing their sovereignty. However, in time JHA policies became one of the fastest integration areas in the EU. William Walters and Jens Henrik Haahr correctly state that;

[g]iven the politically- sensitive nature of the policy areas covered by JHA, and the political aspirations invested in them, it is clear that JHA is not just another policy area that has been brought within the EU's political orbit by the gravitation pull of functionalist spill over. It is much more than this because it raises some profound and difficult questions about security, citizenship, community and political identity. More specifically, under the rubric of JHA the EU finds itself taking a central position within the field of what is today called 'internal security'. Consequently, the logics of security which the EU mobilizes, and in which it is implicated, are changing (Walters and Haahr, 2005: 91).

This statement exactly overlaps with the inquiry of this thesis. A major hypothesis of this thesis is that "fortress" is a misrepresentation, the practices of the EU does not aim to create a fortress as in the medieval ages surrounding the city and

aiming to have total control over the territory in entry and exit. However it creates a “ban-opticon” as also stated by Didier Bigo various times (2000, 2002, 2008) where free movement is the main goal but supported with filtering out of certain categories, unwanted and risky elements and to achieve this, governing through networks at a distance is a method adopted. The aim of this thesis, in this context is to discuss these new ways of governing populations particularly outside the Union. JHA policies are a tool to conduct others’ conducts, by acting on other’s thoughts and deeds, through which power operates not only for the ones under the rule of ‘sovereign’ but also for the ones outside of it. And, it is also a must to mention more complicated nature of sovereignty as a result of the EU. The EU, within an evolving notion of security, which mostly intertwines internal and external, exerts different forms of power, not only to the ones inside but also to third countries and their nationals, by using different ‘security techniques’.

In such a context, the situation of the ones at the intersection of outside and inside deserve particular attention. Ferruccio Pastore in his article with a revealing title *Reconciling the Prince’s Two Arms: Internal-External Security Coordination in the European Union* states that

in connection with the progress in European integration and the gradual dissolution of the ‘existential’ external threat represented by the Communist block, two parallel processes of a) Europeanisation and b) ‘externalisation of what were traditionally labelled as national/internal ‘threats’ (or internal security issues) have taken place (Pastore, 2001).

Similarly, Joanna Apap and Carrera (2003: 41) assert that there is a major change in security concepts as well as distinction between internal and external security. Part of it is related to globalization. But, this increasingly led European governments to adopt practices that risk eroding major civil liberties, rule of law and human rights. This is done through “surveillance, policing and restrictive measures towards people in general ... Therefore the practices implementing the Schengen borders regime merit special attention” (Apap and Carrera, 2003: 41). In line with this observation, this work aims to examine the construction of a

political internal security space within the EU, and the tools, technologies and techniques created and used in this process in governing the policy area which has repercussions even outside of the Union. The most vulnerable actors in this process are asylum seekers, whose rights face the challenge of being undermined to an important extent. Existing international human rights regime is based on “citizenship” and a very narrow definition of refugees. Thus, refugees lack necessary security and protection under international law. The EU’s position bears a great potential for the direction of change globally. Yet, despite some claims for experiencing a ‘post-historical era’ (Kagan, 2003), which has gone beyond traditional definitions of nation state, citizenship and security, the EU’s policy toward immigrants and refugees are mostly at odds with this claim.

Moreover, the EU manages, through different power techniques, to export its restrictive and “security” oriented policy toward acceding and candidate countries. Writing in late 1990s Sandra Lavenex correctly argued that “restrictive trend places the Europeanization of refugee policies between two conflicting paradigms: the commitment to international human rights on the one hand and the preoccupation with the safeguarding of internal security on the other” (Lavenex, 2005: 3). Attaining security is at the centre of the institutions of modern politics. Even for some Enlightenment thinkers, security constitutes the reason of existence of ‘the leviathan’ like states.<sup>1</sup> Indeed, prominent historical sociologists reveal well the link between nation state formation, especially in Europe, and use of force, development and centralisation of military and police tools. In the EU, as the polity evolves, the notion of security as well as methods for defining and tools for attaining it also evolve. The crucial question to be asked in this conjuncture is, what is being transformed, what is at stake in this transformation and for what it serves?

The post-positivist moment in International Relations (IR) provides scholars with original tools and approaches to answer these questions. In the post-Cold War era,

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<sup>1</sup> For sure Thomas Hobbes is the first name that comes to mind.

one of the main developments in the discipline has undoubtedly been breaking the hegemonic position of positivist theories and the increase in interdisciplinary approaches. The 'third debate' (Lapid, 1989) provides new and creative avenues for studying international problems. Michel Foucault, a prominent French academic, has been quite influential in western academe with his original contributions in social sciences. Writing on various topics, he adopted, following Friedrich Nietzsche, a specific methodology called genealogy to stress the constructed and historical nature of the social and the political. For Foucault there is no essence or truth. Instead "domination is the key process, and discourses are central mechanisms of these dominations" (Smith, 1995). Thus, there is a clash of discourses and "where the rule of law finally replaces warfare; humanity installs each of its violence in a system of rules and thus proceeds from domination to domination ... The success of history belong to those who are capable of seizing these rules" (Foucault quoted in Smith, 1995: 5). Security studies also benefitted from this opening of third debate and more critical and original contributions emerged in thinking about security.

Thus, to recap, while the literature on migration is overwhelming, this work is particularly interested in the EU's increasing integration in JHA, creation of 'new rules', results of this in power relations and on the security discourse and practice especially on illegal immigrants, such as intermingling of refugees, illegal and legal migrants, and the EU's disciplining and governing techniques on this field not only within the EU but on candidate and neighbouring countries. There is a proliferating literature adopting a critical security studies perspective. This work similar to them, assumes that social problems as well as security ones are not verifiable entities but constructions serving certain interests. Thus their analysis should be located within a social construction process. And security is not a 'neutral signifier', nor is it an objective fact that can be easily decided about. (Wyn Jones, 1999). Despite believing that the findings of critical approaches to JHA and especially to asylum and immigration policies of the EU is very insightful, this thesis however asserts that, it is necessary to push these critical

perspectives further by adopting a Foucauldian inspired one, with a particular focus on his governmentality concept.

Governmentality is a concept coined by Michel Foucault during his lectures in College de France in 1978. Though it was published a year later, the concept had to wait till early 1990s to become employed widespread (Dean, 1999: 1). He used the term government in two different ways; both to denote a wider and a narrower sense. It is mostly interpreted that he meant the ‘conduct of conduct’ with government, or as Gordon states “a form of activity aiming to shape, guide or affect the conduct of some person or persons”, which ranges from the personal to social and political domains (Dean, 1999). Foucault was indeed interested in the link between these different spheres, yet he more specifically dealt with the latter, i.e. the political domain. While the term government is used to denote “a more general term for any calculated direction of human conduct”, governmentality “seeks to distinguish the particular mentalities, arts and regimes of government and administration that have emerged since early modern Europe” (Dean, 1999). In most of the texts, governmentality, art of governing and rationality of government is used interchangeably, with which Foucault meant

a way or system of thinking about the nature of the practice of government (who can govern; what governing is; what or who is governed), capable of making some form of that activity thinkable and practicable both to its practitioners and to those upon whom it was practiced (Gordon, 1991: 3).

Here again, in line with his genealogy approach Foucault adopts a historical perspective stressing the humanly invented nature and varying forms of government as well as security, without attributing any essence to it but instead revealing the transformation.

In one of his books, *Discipline and Punish: the birth of the prison*, Foucault (1975) dealt with the working of modern society. He claims that the whole modern society is build on several techniques of power “designed to observe, monitor, shape and control the behaviour of individuals situated within a range of social

and economic institutions such as the school, the factory and the prison” (Gordon, 1991: 4). All these institutions are structured around certain knowledge and power relations. On the other hand, in his book *History of Sexuality*, Foucault introduced the term ‘biopower’, where the body of the subject becomes an arena of politics. This way though modern liberal state seems to let free its citizens in many ways; it, on the other hand, intrudes into much deeper and micro social fields. Security is also located in this conjunction (Gordon, 1991: 5).

Foucault, according to Gordon,

treats security...not just as a broad, self evident requisite of political power, but as a specific principle of political method and practice, distinct alike from those of law, sovereignty and discipline, and capable of various modes of combination with these other principles and practices within diverse governmental configurations... Whereas sovereignty has as its object the extended space of a territory, and discipline focuses on the body of the individual (albeit treated as a member of a determinate collectivity), security addresses itself distinctively to ‘the ensemble of a population’ (Gordon, 1991: 20).

Similarly all the three forms of power are at work in the EU discourse on migrants. Sometimes the sovereignty discourse framed as the territories of the Union to be guarded against intruders, sometimes the discipline where the body of the immigrant and asylum seeker becomes an arena of politics in the EU, both willing to help flourish and prevent death of, but also keep it outside of Europe especially if unskilled, or the practices of security professionals. And also governmentality plays into the picture, by being built on a liberal mentality aiming to manage the risks and conduct actions of populations. There are several social and political institutions involved in this governing process and new ones are being imagined by the EU.

Foucault, while historicising different forms of government in Europe, differentiates early modern police type from liberal forms of power. Police type embodies a certain mentality of security, where “security is imagined in terms of

the organization of the whole royal territory like one great city” (Walters and Haahr, 2005: 102). However, with the rise of modern state the police type of mentality was replaced with liberal forms of power. “Liberalism discards the police conception of order as a visible grid of communication; it affirms instead the necessarily opaque, dense, autonomous character of the process of population” (Gordon, 1991: 20). Gordon argues, liberal forms of power is also preoccupied with similar concerns however, it frames them in ‘mechanisms of security’ (Gordon, 1991: 20).

A crucial question that might be asked here can be why Foucault but not employing any others in understanding the EU internal security policies? The answer would, while inevitably subjective in the sense that carries the imprint of preferences of the author, is as follows: First, this work aims to locate its research in critical theory in the broadest sense. I agree that other critical theorists shall provide valuable insights to this issue, concepts like exploitation, hegemony, core and periphery are all relevant and useful. However, for the author of this thesis what makes Foucault attractive is his effort in trying to go beyond the structural straightjackets of Marxism or any other macro theory especially through his original definition of power, as well as his effort to provide an original interpretation of liberal modes of governing. Foucault, contrary to more commonly adopted interpretations of state and social relations, does not see power just repressive or taking place among unequal parties. On the contrary power relations takes place where there is room for change and unsettling the relation, which also creates room for a more positive interpretation of power. Indeed, these power relations, whose output is never predetermined, are productive at least in the sense of creating new subjectivities. Neither party remains the same. Moreover, though Foucault did not write about the EU as he died when the integration efforts were relatively at an early stage, his writings on western thought, liberalism, power bear the potential to provide original insight into the practices of the EU. His way of seeing the state as fragmented and dispersed reflects well today’s European states and their methods of governing populations.

Indeed, the way the EU governs its surrounding, is much more sophisticated than just naming it as ‘exploitation’ or ‘domination’, nor just calling it ‘soft power’ or ‘governance’. A deeper understanding of the discursive constructions enabling a certain practice possible is needed. Foucault, with his conceptualizations of power and governmentality opens an avenue for this. The aim of this thesis is not necessarily to reach a totalizing conclusion such as the claim that the practices of the EU in the field of internal security and migration are oppressive or the contrary. But it is to inquire the discourse enabling the practices, more focusing on specific practices themselves and the power relations they create and new subjectivities emerge as a result of it.

However, it should also be noted that, similar to Foucault’s own approach towards Marxism which is sometimes ‘cherry picking’ certain concepts and employing them in different contexts, the approach of this thesis towards Foucault might be similar in some ways. That is to say, it does not agree with all the claims of Foucault, but finds some of his concepts like power and governmentality insightful. Foucault’s work has found an audience in other parts of social studies; however, European studies and security studies remained relatively immune. Relatively recently there has been some interest in employing his concepts to understand the developments on the EU and this work aims to contribute in this newly emerging literature.

### **1.3 RESEARCH DESIGN AND METHODOLOGY**

The thesis is located in the space post-positivist works of the third debate created. In this thesis a broader connection between security studies, governmentality studies and European integration will be sought. One of the main aims is to reveal the constructedness of the EU and to adopt a more reflexive and critical approach within EU studies. The ontological standpoint of this thesis therefore is a social constructivist one, which argues, unlike essentialist interpretations, that social world is constructed by human actions and discourses. It thus adopts a

methodology in line with this ontological standpoint. It is based on a qualitative approach; with a particular emphasis on human experience and discourses.

The methodology of this study has two aspects. The research of the first part was started in Turkey and continued in the United Kingdom. First, the theoretical framework is based on the review of the literature. The major propositions of the thesis are based on this literature review. It included a detailed literature review on the development of JHA cooperation in the EU, critical security studies, post-structuralism and Foucault. It had a specific focus on the evolution of European policies on illegal migration and the changing notion of internal security. The literature scrutinized, included more specifically mainstream EU literature on JHA as well as Foucauldian interpretations, which is a rather unexplored area. The legal documents of the EU such as the major agreements, Commission Communications and Council Regulations in related areas were benefited as primary sources. Indeed, they were crucial tools in de-constructing the mentality of the EU in this field. The results of these can be found in Chapter Two and Chapter Three.

Secondly, it has the empirical dimension that seeks to analyse the change on the ground. This has two dimensions, one focuses on the tools and techniques adopted by the Union and secondly by taking Turkey as a case study. This part of this study is completed mostly in Turkey. Following this theoretical and conceptual review, the EU's power techniques both inside and outside was the focus. In this phase, partly legal documents of the EU, such as progress reports and that of Turkey, such as National Plans and Turkish legislation were scrutinized. Also background interviews were conducted. It aimed at demonstrating these new forms of governing and mentality the EU is willing to export in Turkish case. Thus, interviews conducted with security bureaucrats at the Ministry of Interior, National Police Force and civilian bureaucracy of the Secretariat General of European Union Affairs of Turkey, which were crucial both in understanding the change taking place as a result of interaction with the EU as well as the perception

of bureaucracy both about migrants and the policies of the EU. At the same time several informal interviews and talks with European bureaucrats at the Delegation of the European Union to Turkey, scholars of the University of Oxford, particularly International Development Department, Refugee Studies Centre, personal experiences of some of the asylum seekers in the UK and Turkey and officials at the UNHCR office in Ankara contributed to the formulation of this work. Interviews were conducted in a term spanning to several years from 2007 to 2010 and were generally semi-structured. The security practitioners and civilian Turkish bureaucracy were asked of their opinion about migration issue in general, asylum seekers, EU accession process and transformation linked to it. A draft list of questions asked is presented in the appendices. The empirical findings can be found in Chapters Four and Chapter Five

#### **1.4 OVERVIEW OF THE STUDY**

The body of this text is comprised of six chapters. Chapter 2, following this introduction, describes the historical evolution of the construction of a European area of freedom, security and justice, which in several documents was put forward as a crucial goal to achieve for the Union. A key prerequisite of this has been defined as developing a new border management model. All these created an environment where an increasing link was established between borders, migration and security. The chapter aims to provide historical evolution of the policies in this field following a chronological order to constitute a base for the following chapters. For this it will discuss the origins and early efforts of cooperation in JHA like the Trevi group or the Schengen Agreements. It is necessary to review early cooperation because the new institutions and practices are heavily under the influence of the old ones. Particularly ToA incorporated all those old legislation as well as practices to the formal EU acquis. A major fault line of the 'old' cooperation was its secretivity and exclusivity to security professionals and the resultant agenda's specific focus on security. Abolishing internal borders was another key milestone in shaping the policies. The key phrase during this process

was adopting ‘compensatory measures’ to cope with security deficiencies that might be faced as a result of abolishing internal borders. Part of these compensatory measures was the increasing surveillance enabled by construction of databases. Starting with 1999, the EU became a more active actor and till now defined three five-year programmes all of which were criticized for their security logic hidden quite professionally and increasing emphasis on the necessity of surveillance.

In Chapter 3 the theoretical framework to interpret the developments in European security field will be introduced. With the end of the Cold War, room for more novel approaches in understanding security emerged. The so called ‘new security threats’ or ‘soft security’ issues, including migration, replaced the discussions on nuclear warheads of the Cold War era. The discussion on the global character of new threats, permeability of borders, coupled with increasing numbers of migration flows to Europe, made European nation-states spend effort to benefit from European integration in this field. Expansion of security agenda and the emergence of a new actor in this field started discussions on security governance at the European level. One result of these was the erosion of the clear line between internal and external security at the European level. Increasing integration in JHA was a clear output of this. During this emergence of security governance, new methods, techniques and processes were imagined, mostly to control migration flows before reaching the territories of the Union. Thus, Europeanization and securitization went hand in hand to a certain extent and created each other. Securitization provides a useful starting point to interpret these developments in Europe however with its exclusive focus on speech act at the discourse level it fails to focus on the change and the practice on the ground. Paris School of Critical Security Studies tried to remedy this with its focus on institutions, practices and modern technologies. If position of Foucauldian concepts are polished in the works of Paris School, this will help us view the role of security from a totally different angle, which is an instrument to govern populations where daily lives and acts of modern individual become a subject of governing.

Foucault's writings is already a source of inspiration for many in Paris School, however, what is argued here is the necessity of a more detailed discussion of Foucault and his conceptualization of governing and security within the context of EU's interactions with outside on JHA matters.

Chapter 4 will discuss, building on the theoretical background introduced in the previous chapter, more specifically about the EU migration and border management policies and new forms of governing at a distance. The chapter will underline a major dilemma of the EU which is controlling its borders as well as keeping up with its humanitarian values and liberal practices. This chapter, parallel to governmentality studies, will discuss the underlying mentality behind the EU practices. Here the concept 'risk' as opposed to a more simplistic threat occupies a central location. The notion of risk is a crucial instrument in governing populations and is closely linked to mechanisms of security. It will also argue that the practices of the Union are based on the mentality of risk management and can be categorized under two broad headings: externalization or pre-emption and surveillance, both of which aim to eliminate risk. Externalization is related to the practices aiming to transform the policies of the neighbourhood of the Union and third countries. It is related to externalization of migration and border management with the plan to set up a safety net or a buffer zone around the Union and adopting a policy of dissuasion for potential migrants. On the other hand, surveillance focuses on using modern technologies such as risk management techniques like profiling or employing databases for border control, asylum or visa applications. The concept of Integrated Border Management is also a product of this and builds on a liberal mentality of freedom and restraint. These inevitably transform the relations in societies and heighten the role of experts in deciding about risks and the precautions to be adopted to tackle them.

Chapter 5 takes Turkey as a case study, building on previous discussions, to review the concrete developments taking place as a result of the policies of the EU. Turkey was declared as a candidate country for EU membership in 1999 and

in 2004 the decision to open accession negotiations was taken. Indeed, historically it is a country at the crossroads of population movements emanating from east and lately from south towards Europe. Moreover, Turkey itself sent millions of legal and illegal migrants as well as refugees to European countries. The accession process has been transforming the discorsal formulations and various practices of Turkey, including the areas of border management, migration and asylum policies. This change has been discussed in various places as an example of Europeanization, where policy making structured are being transformed. However, this chapter does not attribute positive or negative meaning to Europeanization, but aims to understand the change in power relations regarding security professionals, immigrants, asylum seekers as a result of changing discorsal formulations and practices.

Chapter 6, as the conclusion, reiterates the findings of this study and raises some more issues for future academic work.

## CHAPTER II

### CONSTRUCTING A EUROPEAN AREA OF FREEDOM, SECURITY AND JUSTICE: EMERGING MIGRATION-SECURITY NEXUS

#### 2.1 INTRO

This chapter provides a brief historical overview of the construction of a European ‘area of freedom, security and justice’ (AFSJ) which is stated as a major goal of the EU in the ToA. More specifically the chapter aims to reveal the processes of constructing a new border management strategy for the EU, the change in the concerns of the member states over time regarding ‘internal security’ and how lately migration became a (even *the*) high priority issue and the intersection point of ‘freedom, security and justice’. Or, as some authors call, the emergence of a migration-security nexus as an established concern of European politics is the main focus. The chapter will follow a chronological order and will put special emphasis on the breaking points, as well as continuities. It will reveal how certain discourses such as the one stressing the human rights dimension of asylum has been sidelined in time and security formulations succeeded in settling in as the ‘common sense’.

Simon Hix classifies EU policies on citizen rights and internal security under four broad headings; free movement of persons, fundamental rights for EU nationals, immigration and asylum policies and police and judicial cooperation (Hix, 2005: 346-347). The first two refers to the rights of the nationals of EU countries, whereas the latter two regulates rights and duties of third country nationals and security threats to the EU internal space and citizens. This work, according to this

classification, is mainly interested in the latter two, which are, in Hix's words, "related to how the member states and the EU institutions decide who has access to national and EU citizenship rights, and how these rights should be guaranteed and protected" (Hix, 2005: 347). To put it bluntly, it is interested in the external dimension of internal security, borders of Europe that define the distinction zone between inside and outside and the measures being taken to secure them.

The Treaties of Rome (1957) as the founding documents of European Communities (EC), along with Paris Treaty (1951), established a basic right for citizens of member countries: the right for citizens of one member state to look for a job and work in any other member state. The Single European Act (SEA, 1986), which was the first main revision of Rome Treaties, took this right as its basis and aimed at removing all physical barriers to the movement of services and labour as part of the single market. The Maastricht Treaty (1992), restructured the Communities according to pillar structure and founded a 'justice and home affairs' or 'the third' pillar. The third pillar was comprised of free movement, immigration policies and police and judicial cooperation. The Treaty of Amsterdam (1997) brought major changes to the third pillar such as adding a new Title (IV) to the EU treaty with the aim of creating 'an area of freedom, security and justice'. As a result, to realize the goals of Amsterdam, the member states approved and revised an action plan at the Vienna and Tampere European Councils (in December 1998 and October 1999 respectively). The plan defined what areas of freedom, security and justice meant and necessitated in terms of action. (Hix, 2005: 347-348). Particularly Maastricht and Amsterdam Treaties constitute major milestones in this evolution, by institutionalizing political cooperation and then intensifying the volume of cooperation. However, origins of cooperation at a European level on 'freedom, security and justice' go back much earlier. Indeed, this earlier forms of cooperation have a significant influence on the structure of today's political union.

The chapter is divided into four sections, the first of which will historically locate the origins of political cooperation and discuss the early efforts or as Jörg Monar calls the ‘laboratories’ of JHA cooperation. Second section will focus on Maastricht Treaty and the formation of the third pillar. Thirdly, Amsterdam Treaty, which constitutes a crucial turning point for JHA cooperation, and post-Amsterdam developments such as Tampere Council Meeting will be discussed. Finally post September 11, 2001 developments, including the Hague Council Meeting and the Stockholm Programme, will be explicated. When contextualized within the bigger project, this chapter aims to narrate the historical evolution of the JHA field, stress its secretive and bureaucracy centred functioning, the role of security practitioners in shaping the discourse and scrutinize the evolution of both discourse and institutional practices covering security and migration.

## **2.2 EARLY ‘LABORATORIES’**

Monar (2001b) claims that the quick evolution of JHA into a major field of EU can be explained by two reasons: early ‘laboratories’ where cooperation on ‘high politics’ issues were experimented and the driving factors that ‘sparked off development’ and expansion of the policy field. He names cooperation within the Trevi Group, Council of Europe and Schengen Agreements as the main laboratories and this work will follow his classification. On the other hand, according to Monar “new or increasing transnational challenges to internal security, Member States’ interest in the ‘Europeanization’ of certain national problems” constitute examples for driving forces for the fast integration in JHA (Monar, 2001b: 747).

In this context, one major ‘laboratory’ area has been coordinating policing activities at a European level. Malcolm Anderson et al. (1995) classifies Euro-policing practices into two; old and new. They take the TEU as the historical moment or “the catalyst for the transformation from old into new” (Anderson et al, 1995: 46). Trevi Group and cooperation under Interpol, according to this classification constitute the old, whereas Schengen accords and Europol are the

examples of new type of policing. After an historical overview they argue that the trends for future are formalization, centralization and generalization, which are mostly correct as will be elaborated further below. However, differing from Anderson et al., Jörg Monar (2001b) includes Schengen within the ‘old’ category, and calls Trevi Group and Schengen as early laboratories for more institutional cooperation. Indeed, he argues ‘new’ institutions became the heir of ‘old’ ones and are formed mostly by adjusting the old structure and relations into a new name and institutions. Monar argues that

[t]heir [JHA policies’] introduction as a major policy-making area in the 1990s has clearly benefited enormously from European co-operation frameworks outside the European Community (EC) treaties. These acted not only as mere precursors but also as laboratories which in many areas experimented with and defined the bases, or helpful starting points, and – on some issues- even core elements for what then became the EU *acquis* in justice and home affairs (Monar, 2001b: 748).

Evidently, this situation might also result in bringing in fault lines of the old structure into the new. Therefore, it is necessary first to scrutinize the ‘old’ cooperation structures in Europe both to reveal the transformation of institutional structure as well as concerns, targets and strategies.

### **2.2.1 TREVI**

One of the major cooperation platforms was the Trevi Group, which was founded in 1975 by the Rome European Council. In the 1970s international crime came to the agenda of European governments as various places in Europe, the Middle East and America were hit by terrorist attacks. During the same period drug trafficking and money laundering were also formulated as problems that should be tackled at a regional level rather than on a national basis. Thus, curbing terrorism and crime constituted the initial concerns for cooperation at the European level. A resolution of member governments in 29 June 1976 stated Trevi’s objectives as: “The creation of Europe-wide policing structures and organizations presupposes a problem: the existence of European criminality” (Anderson et al, 1995: 15).

Tony Bunyan narrates the establishment and functioning of Trevi as follows:

At a Council of Ministers meeting in Rome in December 1975 UK Foreign Secretary James Callaghan proposed, and the Ministers agreed, to set up a special working group to combat terrorism in the EC. This proposal was formalised in Luxembourg on 29 June 1976 at a meeting in EC Interior Ministers. The decision meant that, in future, Ministers were accompanied by senior police and security service officials at these meetings. Five working groups were set up in 1976, reporting to the Trevi Senior Officials group, who in turn presented reports initially annually to meetings of the Trevi Ministers, the 12 Interior Ministers of the EC. The Trevi 'troika' is comprised of three sets of senior officials from the current EC Presidency, the last Presidency and the next one...The job of the 'troika' is to assist and brief the current Presidency and its officials (Bunyan, 1993: 1).

Therefore, Trevi group was built on intergovernmental cooperation between the 12 states. Although it was discussed at European Council meetings, it was out of the remit of other EC institutions thus excluded the European Commission and the European Parliament. It had a tripartite organizational structure; ministerial level, senior officials and working groups comprised of middle rank security officers. The ministers met biannually and the senior officials prepared the groundwork for them. Every country appointed a liaison officer to facilitate the information exchange. Also a secure communication network was set up. Five working groups were established at different times and were responsible respectively for; combating terrorism; scientific and technical knowledge and police training; dealing with security procedures for civilian air travel- which was later given the responsibility to inquire organized crime at a strategic, tactical and technical level and drug trafficking; safety and security at nuclear installations and transport and finally contingency measures to deal with emergencies (Bunyan, 1993: 2). However, among these five working groups Trevi 1 and 2 were the most active. One of the significant publications of Trevi has been the *Trevi Programme of Action Relating to the Reinforcement of Police Co-operation and the Endeavours to Combat Terrorism or Other Forms of Organized Crime* published in 1990 in

Dublin, which put forward the intention to establish a European Drugs Intelligence Unit (EDIU), which later was tangled with the proposals to establish 'Europol'.

On the other hand, as the efforts to accomplish single market gained momentum in the late 1980s, several *ad hoc* groups were formed to inquire the effects of it. One of them was called the 'Trevi 1992', which was created in 1988 to examine the consequences of the abolition of internal border controls within the EC. Apart from a reference to free movement of labour in Rome Treaty, three EC founding treaties had no explicit competence on issues related to JHA. Yet, they had the potential of having major implications. Only when the goal of establishing a single market was taken serious and started to be translated into reality in mid 1980s, these implications were commenced to be discussed within the EC context. Trevi 1992 group reported to the Co-ordinator's Group, formed at the European Council summit at Rhodes in 1988, and which a year later drafted the Palma Document containing a list of preparatory measures for the abolition of border controls. Trevi 1992 was not the only *ad hoc* group, it had close working relationship with the Mutual Assistance Group 92 which focused on customs and the Ad Hoc Group on Immigration, which drafted the Dublin Asylum Convention and the External Frontiers Convention. It was also responsible for overseeing activities in the Ad Hoc Group on Europol, which reported directly back to the senior officials. An Ad Hoc Group on International Organized Crime was also founded in September 1992 "to propose measures to counter both the increasing influence of Mafia across the territory of the EU and the threat of East European organized crime" (Anderson et al., 1995: 55). Trevi 1992 was dissolved in 1992 as it completed its main responsibilities and the remaining work was transmitted to the Working Group 3.

Thus, though Trevi was initially set up as a mechanism to coordinate efforts in fighting against crime and terrorism at a European level, as the goal of Rome Treaty to establish a single market with four freedoms gained momentum, the

cooperation was extended to other areas and *ad hoc* committees proliferated. However Bunyan claims that with 1988 the *ad hoc* mechanism of Trevi was transformed and that “[t]he appointment of the Coordinators’ Group in 1988 and the adoption of the ‘Palma Document’ in 1989 marked the beginning of the *transformation* from *ad hoc* inter-state mechanisms to a permanent European state” (Bunyan, 1993: 1). In that sense 1988 Rhodes Summit constitutes a main turning point, as a result of the idea of attaining a single market becoming a reality rather than a distant goal of Rome Treaty.

Trevi faced with severe criticism both coming from the European Parliament and civil rights groups since the beginning, mainly because of its secretive and bureaucratic functioning. Its *ad hoc* character, lack of transparency in its functioning and lack of external democratic control were the main lines of criticism. What is important about this is its legacy for today and its relevance to today’s EU JHA policies. As Monar (2001b) argues, this early ‘laboratory’ constituted the groundwork for EU JHA and indeed some of its functioning and structure was adopted as it is to the EU structure as a result of Maastricht Treaty. Thus, even now EU JHA faces with similar criticisms after more than three decades and plenty of legislative transformation.

### **2.2.2 COOPERATION WITHIN THE COUNCIL OF EUROPE**

Another main ‘laboratory’ has been the cooperation at the Council of Europe (CoE) which was founded in 1949 and since then devoted plenty of efforts in creating a pan-European legal and judicial space. Its work constituted and still constitutes a main reference for the EU efforts. One of the main initiatives of the CoE, related with the focus of this work, had been on the movement of people.

Migration is not a new concern for Europe. Crusades, European colonialism and imperialism can be given as early examples of forceful and voluntary movements of people. However, more recently, First and Second World Wars created mass fluxes of civilians crossing the borders. With the end of the Second World War, a

new type of migration emerged in European countries. European states were worn out and badly in need of foreign labour force to reconstruct their economies. Thus, they adopted policies to attract foreign labour, encouraging intake of labour force from other countries. However, the increasing oil prices in 1970s and following economic recession in European economies changed this liberal atmosphere regarding the movement of labour. This changing conception and policies are still in effect and some ways play into European integration as well. With 1970s European states decided to stop intake of foreign labour, however, they soon realized that despite their restrictive policies the number of foreigners did still increase.

There are several explanations to this situation as Rosemary Sales (2007) correctly argues. One key issue was the family unification. Although initially European governments construed migrants as short term residents who would soon return to their own countries, 1970s made them realize the ‘unplanned’ social dimension of the issue. *Guestarbeiter*, soon was depicted as an unwanted guest that neither could go back nor could fully integrate. Indeed, despite the restrictive approach adopted with 1970s, European governments had to accept the families of these guest workers, through family reunification. Also another group of people to be affected from these developments was the asylum seekers. As Zolberg et al. (1989) clearly reveals there were other dynamics at play in other parts of the world which produced refugees that manage to find their way to Western countries. Moreover, a general finding of the refugee literature is that, restrictive immigration policies left people willing to come to Europe with no other option but applying for asylum. Thus, international refugee regime, initially designed for ‘European’ individuals, faced with a changing situation where non-Europeans were asking to benefit from. Within such a context, CoE was a crucial arena for cooperation.

One of the early cooperation efforts took place under the CoE framework in 1960s. As mentioned above, 1960s was the liberal era regarding migration and

asylum and CoE had several initiatives to secure the rights and improve the situation of asylum seekers and refugees by increasing cooperation in this field. CoE in tandem with its general humanitarian approach placed special emphasis on the protection of human rights. For instance, in 1967 the Committee of Ministers adopted a resolution which stated “governments should act in a particularly liberal and humanitarian spirit in relation to persons who seek asylum on their territory and cooperate in a spirit of European solidarity and of common responsibility in this field” (Lavenex, 1999: 31). In the year 1977 the Ad Hoc Committee of Experts on the Legal Aspects of Refugees (CAHAR) was formed. “This committee is made up of governmental experts and formulates legal instruments for discussion and adoption by the Council of Ministers” (Lavenex, 1999: 31). The logic behind this was the belief that asylum is a common concern for European countries that required some sort of harmonization of legal standards. One of the main issues tackled was the ‘refugees in orbit’ that is asylum seekers who fail to find a state willing to process their claim. In 1981 a recommendation on harmonizing national asylum procedures was adopted by the Committee of Ministers. A more ambitious harmonization programme was introduced by the Parliamentary Assembly in 1985. However, the issue of determination of responsibility evoked disagreements among members. Only in 1989 a ‘Draft Agreement on Responsibility for Examining Asylum Requests’ was proposed by CAHAR. What is important, again the wording of the document, as previous ones, evoked the liberal and humanitarian traditions of member states of the organization, prioritizing the security of refugees than the security of states or European societies.

Thus, rather than security of states or societies, security of asylum seekers was the main concern under CoE cooperation. CoE continued its efforts in 1970s and 1980s as well, however, its relative importance as a platform for ‘problem solving’ decreased as other initiatives gained momentum. CoE’s discursive formulation was not convenient for an increasingly exclusionary and security discourse. In this context, Lavenex correctly argues that in late 1980s

CAHAR had lost its leading position in the harmonization of European refugee policies. Instead of seeking harmonization in the humanitarian framework of the Council of Europe, EU member states shifted co-operation to more selective intergovernmental fora...The Council of Europe has continued to issue declarations, reports and recommendations on refugees...However, these efforts have had little impact on member states' policies. Instead a second form of co-operation has evolved which is determined by the intergovernmental negotiations amongst EU Ministers for Immigration (Lavenex, 1999: 33).

Observation of Lavenex regarding refugee policy of European states is quite right and it can be extended to other areas. As the European integration deepened at the EC level, CoE lost its significance. Although, painstaking decision making process of CoE that requires unanimity and its relatively lack of enforcement power played a role in this shift, 'securitization' of certain issues in European states led to moving away from more humanitarian framework of CoE to a more intergovernmental and less binding structures that gives more space to executives by sidelining parliamentary and judiciary controls.

### **2.2.3 SCHENGEN AGREEMENTS**

Parallel to the above mentioned developments, another famous initiative was taking place among five European governments; Belgium, the Netherlands, Luxembourg, Germany and France, to eliminate frontier formalities. It resulted in signing the Schengen Agreement in 14 June 1985. Schengen is clearly one of the initiatives Lavenex had in mind when claiming member states moved away from CoE to other forms of cooperation. It functioned as a 'laboratory' for a border-free Europe and it finally became a part of formal EU legislation in 1999 when the ToA came into force.

Although Schengen Agreement took place outside the EC framework, the Community was also active in the same period. During the mid 1980s the discussions for furthering economic cooperation gained momentum and the SEA

as a major revision of founding treaties constituted a crucial turning point. Desmond Dinan argues that “[t]he transformation of the European Community in the late 1980s occurred on response to a new era of globalization. Rapid technological change and fierce international competition forced Western European countries to deepen economic integration” (Dinan, 2004: 205). Single Market Programme was seen as a cure to the increasing globalization. And the SEA signed in 1986 and entered into force in 1987. Achieving an internal market has been one of the main aims of the EC. SEA enabled the Community to reach its aim, even though with some delay in the original plan. The aim of it was to help the Community’s tools to correspond with its aims. The biggest change in terms of its effects, was the change in decision making method in the Council from unanimity to qualified majority voting, which facilitated the enactment of single market legislations. Another crucial change was the Parliament’s broadened role in legislative process with the right to ask for a second reading of draft legislations.

As already mentioned the date 1992 was put into the SEA as the target date for the completion of single market. Among the four freedoms of goods, capital, services and labour, the first three were relatively less disputable among the members. However, free movement of people created some resentment and at that point Schengen provided an alternative opening. According to Kölliker there were two justifications used for the Schengen Agreements:

On the one hand, they sought to prefigure the arrangements for a wider border-free Europe under the ‘1992’ programme in a way providing a model which could be used at an EU wide context and on the other hand, it was a ‘modest interim solution’ for the anticipated delays in the EU wide programme (Kölliker, 2006: 215).

Schengen Agreement was signed after several rounds of negotiations. It is claimed that long queues at the border between Germany and France that resulted in the protests of lorry drivers was a final stimulus for the two countries to take action. Although it was a bold step, this type of ‘borderless’ arrangements were already in

place in some parts of Europe such as among Benelux countries. Anderson et al state that

The forerunners of ...[Schengen] were the 1958 Benelux Treaty, the 1977 Convention of Paris, the 1984 Saarbrücken Agreement, and, to a certain extent, the 1949 Police Border Agreement between the Netherlands and Belgium. The Benelux Treaty was an important precursor of the abolition of frontier controls envisaged by the Schengen Conventions. Belgium, the Netherlands and Luxembourg agreed in the free movement of persons, goods, services and capital, the co-ordination of national economic policies, and the pursuance of a common trade policy towards other countries. Six months before the treaty came into force, passport controls between the three countries were abolished for Benelux nationals travelling from one Benelux country to another. As the Saarbrücken Agreement sought a similar relaxation between France and Germany, the Schengen Conventions can be viewed in a clear progression from these two earlier agreements, bringing together the various signatory states in a wider border free zone. Schengen is, however, far more ambitious and wide-ranging than its smaller-scale predecessors (Anderson et al., 1995: 57).

Schengen, similar to Trevi, though had a reference to EC law in the 1985 agreement, was an initiative taken outside of the EC structures. However, the European Commission was given observer status during the negotiations to monitor if the arrangements were consistent with EC rules. And in return it heartened the Schengen countries to have all checks on persons crossing their common land frontier abolished by 1 January 1990. The first part of Schengen was related to short term measures, particularly related to free movement of goods and services and it entered into force in 1 January 1986. The second part was related to the long term measures such as the joint checks in borders or stickers to be used in small vehicles. Parties of Schengen Agreement had plans for establishing improved cooperation on related issues like customs and police authorities, fighting against illegal immigration and drugs. "In the longer term, the parties undertook to harmonize their visa policies, firearms and ammunition laws, and rules on the registration of travellers in hotels" (Anderson et al., 1995: 57). The agreement also foresaw the signing of an implementation agreement with concrete details.

Although, first Schengen Agreement was signed in 1985, it took another five years to sign the Schengen Implementing Convention (SIC). Negotiations during this five years were cumbersome and it was undertaken by four working parties; police and security; movement of people; transport; and movement of goods. Anderson et al. claim that “the negotiations were protracted especially with regard to police activities in foreign territory, extradition, drug policies and asylum policy” (1995: 58). Pursuit of criminals across national borders, illegal immigration, a common asylum policy, resolution of the status of refugees, joint action against drug-trafficking and terrorism, and a common computerized information system (Schengen Information System or SIS) for the exchange of personal data are issues arranged by the SIC (Anderson et al, 1995: 58). Anderson et al. again correctly argue that

[t]he most elaborate proposal yet for internal security co-operation between a majority of EU Member States is the Schengen Conventions...The Schengen Implementing Convention of 1990 is a comprehensive framework to balance free movement of goods, persons and services with intensified cross-border police co-operation. The main philosophy underlying the Schengen Conventions is that when borders are opened and free traffic of persons and goods is allowed, internal security can only be guaranteed by compensatory measures (Anderson et al., 1995: 56-57).

The notion of ‘compensatory measures’ constitutes a crucial point in constructing a ‘securitized’ mentality regarding external borders and movement of people, which gave security agents a rather free hand to reflect their nightmares into policy making. Here, through compensatory measures the risks are claimed to be averted. In that context, Anderson and Bort grouped compensatory measures of Schengen under eight headings:

- 1- Strict control of the external frontier according to common rules, contained in the confidential Schengen manual for the external frontier, and common visas.

- 2- A co-ordinating committee and technical inspections of the external borders of all member states (and candidate members) to ensure that they meet the agreed standards.
- 3- Exchange of information on prohibited immigrants, wanted persons, stolen vehicles through the Schengen Information System (SIS), a computerised central database ... in Strasbourg, which supplies information to and receives information from national databases.
- 4- Data protection in the form of an independent control board with a uniform code of rules.
- 5- A task force to analyse intelligence about the role of organised gangs for smuggling illegal immigrants into the EU.
- 6- The establishment of national offices of SIRENE (*Supplement d'Information Requis a l'Entree Nationale*) to deal with difficulties and emergencies.
- 7- Enhanced police co-operation and judicial co-operation between the participating states, particularly in the frontier regions.
- 8- Movement towards a common visa, asylum and immigration policy (Anderson and Bort 2001: 58).

The Schengen system is managed by an Executive Committee, which, after 1999, became the EU Justice and Home Affairs Council of Ministers, plus a Central Control Group and a board that verify data protection rules are properly implemented (Anderson and Bort, 2001: 58). A crucial component of the Schengen system is the SIS, a database to collect and keep information on wanted persons and objects. The SIS became operational in 1995. In every member country there exist a SIRENE officer who is responsible for controlling the validity of information exchanged through SIS and is in a position to refuse a request of circulation of certain information if it is against national laws. Although imagined as a tool to compensate for the negative effects of free movement of persons, SIS stirred some discussions as it aimed to collect and store data about both citizens of member states and others willing to enter the 'Schengenland'. It was claimed to constitute a potential danger for civil liberties and indeed it criminalizes migrants and asylum seekers as it keeps their data together with criminals (Lavenex, 1999). Besides, Kölliker argues that "[t]he SIS is probably one of the most straightforward examples of an excludable network good in the context of EU policies. Outsiders can be easily excluded..." (Kölliker, 2006: 216).

Schengen, at the simplest definition aimed to get rid of border formalities. However, its effects went far beyond. As Kölliker (2006: 213) argues; “Schengen was a package including more than just the issue of internal and external border controls.” Before the Schengen Agreements were incorporated into the EU *acquis*, its members increased from five to thirteen; Italy in 1990, Spain and Portugal in 1991, Greece in 1992, Austria in 1995 and Denmark, Finland and Sweden in 1996. The UK is the only EU member that remained outside the Schengen system at Amsterdam. Ireland, despite its willingness, was unable to participate fully, because of its Common Travel Area with the UK. Denmark, as a signatory of the Schengen Agreement was committed to fully applying the Schengen *acquis* when signed, yet it received the right to opt-out with Amsterdam to secure the right not to be obliged to participate in later developments. With the entry into force of the ToA, the Schengen *acquis* was incorporated partly into Title IV of the EC Treaty (visa, asylum and immigration) and partly into Title VI of the EU Treaty (police and judicial cooperation in criminal matters). All of the three countries, the UK, Ireland and Denmark have negotiated selective opt-in possibilities to allow them participate in selectively and the UK and Ireland chose to participate in the SIS (Kölliker, 2006: 214).

Not only EU members but some other non-member European countries became a part of the ‘Schengenland’ eventually. Norway and Iceland are two examples; as two members of the Nordic Passport Union concluded an agreement with the EU in 1999. Most recently Switzerland also signed a bilateral agreement with the EU in 2004. Thus, the situation before the eastern enlargement of the EU can be summarized as follows: thirteen members of the EU- 15 and two non-members Norway and Iceland participated, “one was eventually willing but unable (Ireland); and one was able but still unwilling (UK)” (Kölliker, 2006:215).

On the other hand, a crucial component of Schengen became the rules on regulating asylum seekers. The working groups formed to negotiate the SIC

included one on asylum. Articles 28-38 of the SIC defined the rules to determine the responsibility of states in examining any given application for asylum in the Schengen area. The ‘refugees in orbit’ has been a concern for Europe for some time and here the “objective was to prevent multiple applications in different Schengen countries by asylum seekers” (Kölliker: 2006: 217).

In 1990s two important conventions were signed. The SIC signed in June 1990, decided about the compensatory measures for removing internal border controls, which included a common visa regime, illegal immigration, asylum, cross border police competences and an SIS which enabled a common system for the exchange of personal data. The second development was the signing of Dublin Convention on Asylum again in 1990. Dublin Convention deserves particular attention as it laid down the basics of a common European asylum system, particularly by defining the responsibilities of member states regarding asylum seekers. Also Schengen asylum system was eventually transformed into “the territorially more encompassing Dublin Convention” (Kölliker, 2006: 216).

Dublin Convention was a product of the ad hoc Working Group on Immigration founded in 1986 by some EC governments interested in addressing immigration and asylum problems particularly in view of the 1992 programme aiming to establish the single market. This intergovernmental body of senior officials from Interior Ministries drafted two conventions related to immigration issues: the 1990 Dublin Convention on Asylum and the 1991 External Frontiers Convention. Both conventions were signed by national governments, but the latter because of disagreements between individual member states, particularly the one between Spain and the UK in territorial disputes over Gibraltar, could never come into force (Poulain, 2004: 243). Dublin Convention was a separate legal instrument that could be joined independently by all Community members. It was also a convention signed out of the remit of EC legislation. It was signed in 15 June 1990 but it came into force only on 1 September 1997 for the twelve original signatories. The relation between Schengen asylum system and Dublin

Convention is controversial as they both were signed almost on the same date; the Dublin Convention was signed four days earlier than the SIC. However, Kölliker argues that

[i]t remains an undisputed fact that Dublin is a result of Schengen, not vice versa. First, the elaboration of the Schengen provisions began much earlier. Second those provisions also served as a model for the nearly identical Dublin Convention. Finally, the Schengen Implementation Agreement entered into force 26 March 1995. This was more than two years before the Dublin Convention, which only entered into force on 1 September 1997. The decision to replace Articles 28-38 of the Schengen Implementation Agreement by the Dublin Convention was made by the Schengen Executive Committee meeting at Bonn on 26 April 1994 (Kölliker, 2006: 219).

The intergovernmental cooperation at the European level starting from mid 1970s concerned with providing a more 'secure' environment for Europeans. In mid 1980s setting up a border free Europe became a crucial factor for intergovernmental cooperation, 1992 was set as the date for achieving a single market where factors of production can travel without barriers. 1992 programme and particularly free movement of persons brought the concept 'compensatory measures' that is the measures to compensate for the security risks brought by a border free Europe.

From 1986 to 1991, the member states created over 20 new intergovernmental bodies dealing with issues such as police and customs co-operation relating to the abolition of internal border controls, asylum, immigration and external border controls and drug-trafficking, thus, ad hoc groups proliferated, networks between police, judicial, customs bureaucracies were established. However, Monar argues that

[t]he work of these groups on 'compensatory measures' did not stop with the target date of 31 December 1992; much of it was actually continued in the third pillar context from 1993 onwards, and led to some results which are still cornerstones for the further development of EU justice and home affairs today. The agreement reached in 1990 on the Dublin convention

and the setting-up of Europol are the most notable examples (Monar, 2001b: 754).

Therefore, abolishing internal borders resulted in the rise of a discourse on “compensatory measures”, as a result of which several new agencies and bureaucracies were created. The next section will portray the change and continuities that took place with the signing of Maastricht Treaty and how all these intergovernmental cooperation was taken under the EU umbrella or to put it in a different way, how this compensatory measures discourse was annexed to the EU.

### **2.3 INTERGOVERNMENTAL COOPERATION: MAASTRICHT TREATY AND THE EU THIRD-PILLAR**

The SEA already recognized, by giving explicit reference to the European Political Cooperation (EPC), the intergovernmental cooperation taking place outside the EC framework. However, formal acknowledgement of cooperation in ‘non-economic’ matters had to wait till the Treaty on European Union (TEU), or as commonly known the Maastricht Treaty, which was signed in February 1992 and entered into force in 1993. Maastricht Treaty, apart from formalising the previous intergovernmental structure, brought few changes regarding the content of JHA (Lavenex, 2001: 108).

Following the 1985 Intergovernmental Conference (IGC) that gathered to discuss the roadmap to accomplish the single market, this time in December 1990, member states launched another IGC to discuss the Economic and Monetary Union (EMU) as well as the fate of the political union. Political union covered a variety of institutional and policy issues; such as the role of the European Parliament or the extension of qualified majority voting in the Council, the transformation of EPC into the common foreign and security policy and institutionalizing the cooperation in JHA. The conference decided both to revise the treaties and to create a new treaty on the European Union. Thus, with

Maastricht Treaty, European Union was founded and declared to be built on three pillars, namely; European Community, Common Foreign and Security Policy and Justice and Home Affairs. The timing of the IGC made particularly certain concerns to surface. The first and foremost was related to the sudden end of the Cold War which deeply affected European politics and perceptions on security environment. In this context, particularly German concerns related to migration pressures from Eastern European countries had an effect on the conference and the resulting Treaty (Dinan, 2004: 257). Although the Schengen Group was left out of the remit of the EU, Ad Hoc Group on Asylum and Immigration with its working groups was taken over by the Union.

The third pillar was legally defined by the Title VI of the TEU and bared the full title “Provisions on Cooperation in the Fields of Justice and Home Affairs”. It was comprised of nine articles. TEU rather than putting exhaustive objectives in JHA, defined certain areas of common interest for member states. Article K.1 defined those areas of common interest as follows:

1. asylum policy;
2. rules governing the crossing by persons of the external borders of the Member States and the exercise of controls thereon;
3. immigration policy and policy regarding nationals of third countries:
  - (a) conditions of entry and movement by nationals of third countries on the territory of Member States;
  - (b) conditions of residence by nationals of third countries on the territory of Member States, including family reunion and access to employment;
  - (c) combating unauthorized immigration, residence and work by nationals of third countries on the territory of Member States;
4. combating drug addiction ...
5. combating fraud on an international scale ...

6. judicial cooperation in civil matters;
7. judicial cooperation in criminal matters;
8. customs cooperation;
9. police cooperation for the purposes of preventing and combating terrorism, unlawful drug trafficking and other serious forms of international crime, including if necessary certain aspects of customs cooperation, in connection with the organization of a Union-wide system for exchanging information within a European Police Office (Europol) (TEU, 1992: Article K.1).

In handling these issues of common interest Article K.2 gave references to (only) two international agreements; the European Convention for the Protection of Human Rights and Fundamental Freedoms of 4 November 1950 and the Convention Relating to the Status of Refugees of 28 July 1951. However, it put a crucial exit clause by stating “[t]his Title shall not affect the exercise of the responsibilities incumbent upon Member States with regard to the maintenance of law and order and the safeguarding of internal security” (TEU, 1992: Article K.2). The meaning and the flexibility of ‘internal security’ will be discussed in the following chapter, thus it is enough to note here that the delicate balance between liberty and security is reminded in the article. Also, a declaration on Police Cooperation attached to the treaty noted the much more ambitious proposals put forward by the German government during the IGC, and agreed “to consider on the basis of a report during 1994 at the latest, whether the scope of such cooperation should be extended” (den Boer and Wallace, 2000: 495).

Before signing Maastricht, there already existed a wide political and bureaucratic network operating at different levels and comprised of interior and judicial ministers, director generals working under these ministers and middle ranking bureaucrats working under these director generals. Maastricht Treaty, therefore, incorporated these into the formal structure of the Union. Den Boer and Wallace resemble the evolution of the third pillar to “an archipelago, with islands of

cooperation loosely linked through the coordinating K.4 Committee and through JHA Councils” and they correctly argue that “[a] lengthy process of reciprocal learning was needed in order to establish the foundations for common policies, and to build sufficient mutual trust to support their implementation” (Den Boer and Wallace, 2000: 501).

In time members of this network managed to establish a working relationship. However, what appeared as a result has been under criticism for its ‘technocratic, secretive and urgent’ nature (Lavenex, 2001: 92). It was technocratic as, despite ministers’ drawing an outline for the policy; it was the security and interior ministry officers that were actually shaping the nuts and bolts of the policy. As correctly stated by Lavenex, it was secretive, especially during the years 1985-88 as “below the level of ministers, all members agendas, protocols or decision making procedures were kept strictly confidential” (Lavenex, 2001: 92-93). Finally, it acted with a sense of urgency to catch up with the 1992 programme and to compensate for ‘security deficits’ it would incur. Though, Maastricht was designed to rectify some of these drawbacks, adopting an already existing body resulted in accommodating at least part of its failures as well.

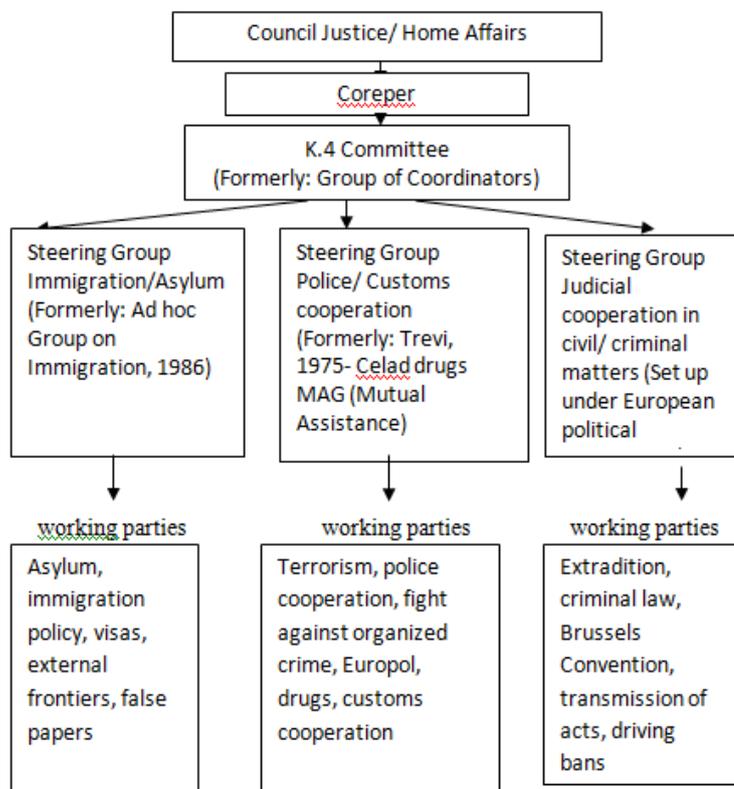
Since 1990 the volume of activities within the third pillar increased steadily. When the 1992 Programme was completed, the working groups which were founded to inquire the effects of single market were disbanded or became less active. Thus, JHA issues remained the largest work load for the Council Secretariat to service for Council meetings. Directorate General (DG) H responsible for JHA and Legal Services were the two departments involved in preparations of policy and draft legal texts. The Commission also had a task force responsible for JHA, whose staff numbered much less than the DG H. According to the structure brought by Maastricht the JHA Council was the top decision making body, which was followed by COREPER, Committee of Permanent Representatives. Then came the K.4 committee that was called the Group of Coordinators before Maastricht, which was initially founded by the Rhodes

Summit. Underneath K.4 there were three steering groups on immigration and asylum, police and customs cooperation, judicial cooperation in civil and criminal matters. And underneath these steering groups there existed working groups on several issues. Thus, Maastricht inherited mostly the Trevi structure which was quite hierarchical, yet it introduced two more layers; COREPER and steering groups. These new layers were actually aimed to help it go beyond technocratic and secretive logic; nevertheless it proved to be cumbersome to take decisions in such a crowded structure. Den Boer and Wallace state that

[t]hree steering groups of senior officials monitored the progress of working groups, in immigration, asylum, and external borders (SC I), police and customs cooperation, drugs, and organized crime (SG II) and judicial cooperation (SG III). The steering groups in turn were responsible for proposing an annual work programme to the coordinating K4 Committee, which had to be reviewed six months later; they then reported back to the K4 Committee at the end of the year. Many delegations saw the steering groups as an extra layer in an already overburdened hierarchy ... The next layer in the hierarchy has been the Coordinating Committee...which brings together in Brussels senior officials from national ministries normally once a month (Den Boer and Wallace, 2000: 506).

With Maastricht new instruments and institutions were added to this huge network. Europol, though, its Convention was not ratified by all member states, was underway to be operational. Databases proliferated; the Customs Information System, EURODAC to keep data of asylum applicants, SIS; were either up and running or under severe work to become functional shortly. In the meantime, external dimension of JHA was also started to evolve quietly. The chart below schematizes the organizational structure of JHA after the Maastricht Treaty.

Figure 2.1 Decision-making on justice and home affairs after Maastricht



Source: (Den Boer and Wallace, 2000: 502).

I

One of the main discourses that legitimized the cooperation in JHA has been the statement in the Preamble of the EEC Treaty that member states are “determined to lay the foundations of an ever closer union among the peoples of Europe” (EEC Treaty, 1957). Indeed, later on, this has been blended with the arguments to make the Union more relevant for its citizens; by providing solutions to ‘their’ daily problems and concerns. Immigration, asylum and crime prevention have gained currency within such a context, which are crucial issues for the scope of this thesis. Maastricht brought crucial changes for both. According to the classification of Anderson et al (1995). TEU constituted the point where old cooperation on policing and crime control was transformed into a new form. For Anderson et al.;

Despite its apparent heterogeneity, Title VI ties various issues together and is, at the same time, a catalyst for the transition of old systems into new systems of European police co-operation. Inter-institutional relations between the new Co-ordinating Committee (K4 Committee), the Council,

the Commission and the Parliament are set down in authoritative, if general, terms. Furthermore, law enforcement efforts are linked and coordinated across a wide range of areas, including drugs, fraud and money laundering, immigration, asylum and extradition. By defining and demarcating matters of common interest, Title VI of the TEU facilitates a more coherent formulation of policy-objectives and strategies (Anderson et al., 1995: 67-68).

Seeing the issue mostly from crime prevention and police cooperation, Anderson et al. has a crucial finding regarding TEU. While in the old system crimes were defined separately and were dealt in separate groups, with the TEU “categories of crime are more explicitly connected with one another [which] indicates a strategic shift... Under the new regime a more generalist approach to fields of crime prevails” (Anderson et al., 1995: 68). This brings an organizational shift as well, moving from ‘particularist’ to ‘generalist’ and from ‘local’ to ‘centralist’. Anderson et al. legitimize their claim by stating that

[e]ach component of the old Trevi system has been replaced within the more cohesively integrated structure of Title VI. The Trevi ministers have been replaced by the EU Council of Interior and Justice Ministers. The Trevi *Troika* is now represented by the COREPER (Committee of Permanent Representatives from each EU State) which is directly accountable to the Council of Interior and Justice Ministers. Senior officials are now represented in the K4 Committee, which consists of one full member from each member state and one from the European Commission (Article K.4). The former Trevi Working Groups, the Ad Hoc Group on Immigration and the Rhodes Co-ordinator’s Group are now replaced by three steering groups...In turn, these are divided into a broad range of specialist working parties (Anderson et al., 1995: 68).

On the other hand, as already mentioned, immigration and asylum was becoming a crucial concern for member states. Particularly German government was a great defendant of further integration in these areas. Both the end of the Cold War and the abolition of internal borders left the greatest mark in the discussions of 1990s. According to Lavenex, the increasing intergovernmental cooperation on migration and asylum during this period was a result of the latter development rather than the change in the situation of refugees or increase in numbers of asylum seekers (Lavenex, 1999: 34).

All in all, third pillar after couple of years of experimentation faced with criticism which in the end was in need of rectification through another IGC. Third pillar cooperation were susceptible to the criticism Schengen cooperation faced, two of the most important of which were secrecy and lack of accountability. Den Boer and Wallace (2000: 508) list some of the weaknesses of the third pillar as: “vagueness of the legal and constitutional framework, which generally resulted in handling institutional issues together with policy proposals”. For Den Boer and Wallace (2000) this was partly related to the formulation of the Treaty, where there is a reference to some of the international human right text as a guidance, but fails in specifying any measures that shall be taken if they are not followed. Secondly, the bureaucratic functioning of the policy field which brings low political visibility and lack of accountability was a main weakness. Indeed, this resulted sometimes in developing far deeper cooperation between security agents than that was reported to parliament or national public opinions. Indeed, there was no mechanism to ensure the national parliaments to ratify the agreements among executive agents. This lack of transparency and information about policy proposals that are being discussed also hindered media to devote enough coverage to this field of activity. “The thinness both of parliamentary attention and of press reporting made for a widening gap between what governments were now undertaking in common and what their public understood” (den Boer and Wallace, 2000: 510). Moreover, it had severe functional drawbacks as well; unanimous decision making which necessitates the agreement of each and every member state was a main source of criticism for third pillar activities mainly coming from people in favour of more integration (den Boer and Wallace, 2000: 520). All these carried the Union to another major Treaty revision.

## **2.4 TREATY OF AMSTERDAM AND THE FIRST PILLAR**

Enlargement plans for the Union coupled with the problems related to the pillar structure resulted in another IGC in 1996-1997. It led to the ToA which

constitutes a turning point for JHA cooperation. Before the IGC convened, Westendorp Reflection Group was formed to discuss the priorities of the agenda. Cooperation in JHA was one of the eight priorities of the then Spanish Presidency, which was reflected in the report submitted by the group to Madrid European Council in December 1995. It was dealt under the bigger rubric of ‘making the EU more relevant for its citizens’ which frequently came up in the following documents of the Commission on JHA policies.

Den Boer and Wallace argue that the works of the Reflection Group found echo in the Treaty: the phrases of the report such as ‘serving the citizens’ interests’ and the claimed ‘demand on the part of the public for greater security’, attending to ‘the citizens call for better handling of the challenge posed to the Union by the growing migratory pressures’ created the background for the arguments of making the Union an ‘area of freedom, security and justice’ which was a major change ToA brought (Den Boer and Wallace, 2000: 513). Following the IGC, ToA was signed in 1997 and entered into force in 1 May 1999.

With the ToA, the third pillar of Maastricht was divided into two: the first part became the Title IV of the TEC on visa, asylum and other policies related to the free movement of persons, and was shifted into the first pillar, that is the community sphere. The ‘communitarization’ of these JHA policies constitute a crucial turning point and was the result of a compromise reached after severe discussions. Some of the member states such as the Netherlands, Belgium, Germany and France argued for transferring the external frontier issues into the regular Community structures. However, the UK in tandem with its previous stance continued its opposition for such a move (Den Boer and Wallace, 2000: 514). On the other hand, the second part on police and judicial cooperation remained under the Title VI. Though its content was modified and further detailed, it nevertheless remained under the intergovernmental third pillar. In a nutshell Den Boer and Wallace summarize the key changes brought by Amsterdam as follows;

- The transfer of ‘visas, asylum, immigration and other policies related to free movement of persons’ from third to first pillar;
- Calling for introduction of ‘flanking measures’ (Article 62-3) to compensate for free movement within EU, including common procedures for controls on persons at the EU’s external borders, common rules on visas for third-country nationals, common measures on the reception and treatment of asylum-seekers and on the ‘temporary protection’ of refugees, and similar common rules on immigration policy. The target for adoption of these common policies is set for five years after the entry into force of the ToA;
- ‘judicial cooperation in civil matters having cross-border implications’ also transferred to the Community proper (but not judicial cooperation in criminal matters);
- A series of reservations, largely at French insistence, limiting the Commission’s powers of initiatives, offering the European Parliament only ‘consultation’ during the five-year transitional period, and setting strict limits to rights of reference to the ECJ (Articles 64, 67-8);
- Different opt-outs for Denmark (wishing to be inside the free movement area, but formally under an intergovernmental regime), the UK, and Ireland (maintaining their opt-out from the lifting of internal frontier controls) (Article 69) (Den Boer and Wallace, 2000: 514).

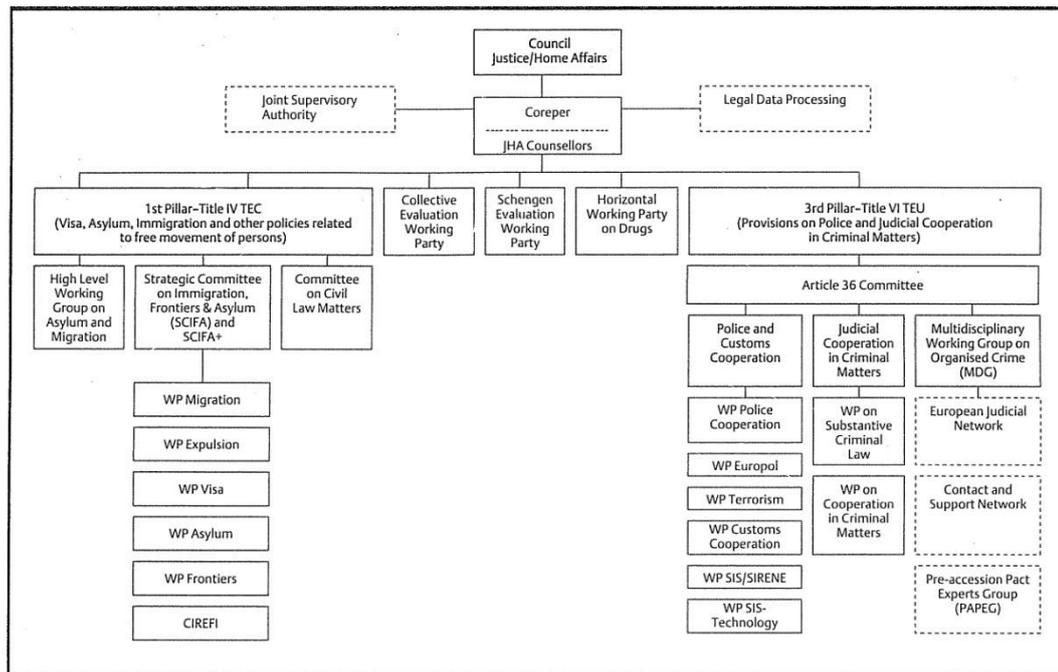
After ToA, JHA became one of the most vibrant areas of European integration. Several new policy initiatives and institutions were created. Monar calls JHA as the ‘winner’ of the 1996-1997 IGC as there has been huge changes both in terms of the volume of legislation and the substance. More than 100 provisions were amended or added to the treaty besides the 6 protocols and 20 declarations annexed (Monar, 2001: 748). Moreover, free movement of people has probably been the ‘winner’ among JHA issues. The goal of attaining the free movement of persons was an important element of the Treaties since Rome. This right initially was planned for the people living in member states that are involved in cross-border economic activities. However, the ECJ in 1982 broadened it to encompass all citizens involved in economic activities. The Commission in its White Paper, published in 1985 that lists the measures that should be taken to complete the single market, advised removing all the controls for persons as well. Moreover, the SEA advocated the complete removal of physical barriers to the four freedoms and thus extended the rights of EU citizens (Poulain, 2004: 242). Indeed, it became a burning issue for the Union since the 1992 programme. However, it

proved to be much more difficult at the Union level to have free movement of people compared to goods.

In this context, ToA introduced two major changes. First, Article 62(2) of the treaty committed the Council to removing ‘controls on persons be they citizens of the Union or nationals of third countries, crossing internal borders’. It did set a five years time period after the entry of the treaty into force for realizing it. This five years time period has come up in Amsterdam for some other issues as well. For instance, the decision making procedure regarding the ‘communitarized’ part of JHA, that is Title IV, was planned to be changed only after five years. The Union with this five year time period tried to make sure the realization of changes before the next wave of enlargement.

Second change was that Schengen officially became part of the Union *acquis*, i.e. Union legal framework through an attached protocol. Decision making organs of Schengen have been incorporated into the Union structures. That is the Council became the executive authority; however it could take decisions only through unanimity. Also the secretariat of Schengen was incorporated into the Council secretariat. However, Hix argues that “decision-making in this area remains highly secretive” partly because EP was not given consultation rights and similarly ECJ, though given limited jurisdiction on certain decisions, was kept distant from issues of internal security arising from Schengen (Hix, 2005: 349). The following chart shows the institutional structure after ToA.

Figure 2.2 Decision Making Structure of JHA after ToA



Source: (Lavenex and Wallace, 2005: 468)

As already mentioned one of the biggest novelty of the ToA has been the bold statement about making the EU an area of freedom, security, and justice. Thus, Amsterdam, differing from Maastricht, put a brave target for the Union to achieve. It introduced new mechanisms towards that end as well. The Council is given the obligation within five years to adopt the necessary flanking measures aimed at ensuring the free movement of persons. These contained measures concerning external border controls, including visa rules (Article 62), and targets regarding asylum, refugees and immigration (Article 63). In this context, Schengen became an essential component of this area of freedom, security and justice discussions as it now became the zone of freedom inside that also draws the boundaries of external borders that should be secured against ‘insecure’ outside. Obviously, this process has accentuated the emphasis on external borders, issues related to it and also the external dimension of JHA harmonisation.

One of these areas that came under the spotlights has been, stated with the EU jargon; ‘separate but closely related’ issues of immigration and asylum. The competences in immigration and asylum were incorporated into the Title IV of the EC Treaty and the Council was not only given the right but indeed the obligation to take measures. Regarding asylum, Belen Garcia de Vinuesa (2003) correctly states that with Amsterdam “[t]he Member States...‘agreed to agree’ on the principles of who is to receive protection, what it entails, where and how it is to be implemented.” Indeed, since then there have been several instruments adopted by the EU to reach its goal of a regional policy. In 2000 and 2001 the Commission produced several communications providing reflection on how to attain the goals set in Amsterdam, which was further elaborated in Vienna and Tampere Summits (Hix, 2005: 355). Since then Union continued, at an increasing pace, on its efforts to establish a ‘common asylum system’. Many of the legislation adopted in this context faced with severe criticism from human right and refugee organizations. Moreover, the cooperation in this area had to face the criticism that measures taken rather than encouraging members to adopt better standards, established minimum standards, sometimes resulting in some of the members to adopt lower standards. In this context,

[t]hree major Directives have been adopted, dealing with Asylum Procedures, Reception Conditions and Qualification for Refugee and Subsidiary Protection Status. In addition, the (1990) Dublin Convention dealing with the determination of which Member State has responsibility for examining applications for asylum has now been adopted as a Regulation (the Dublin II Regulation) (Baldaccini and Toner, 2007: 8).

Baldaccini and Toner underline the “two concepts at play [in the adopted Directives] that risk being mutually exclusive: harmonization and dignity” (2007: 9). They argue that, despite on the one hand Directives talk about “ensur[ing] a dignified standard of living” for asylum seekers whose application is under review, they also keep the expectations at a minimum standards level to ensure that reception conditions would not function as a pull factor among member

states. They argue that “[s]ecuring this latter objective...may result in generous levels of support across the EU. But there is much leeway in the provisions for Member States to set standards so low as to make them the most unattractive of destinations” (Baldaccini and Toner, 2007: 9). They give examples of detention of asylum seekers which is now employed almost everywhere in Europe, or the prohibition on employment, “and the withdrawal of support to sanction ‘negative’ behaviour when the support provided is designed to meet needs that are not more than basic” (Baldaccini and Toner, 2007: 9). Thus, lately the member states do not necessarily have the most humanitarian records in asylum issues and the measures of the Union do not necessarily alleviate the situation. There is the talk on the one hand about protecting the dignity of asylum seekers but on the other hand practices do not reflect this. This issue will be discussed further in following chapters.

#### **2.4.1 VIENNA SUMMIT**

After adopting ToA in 1997, the Union held several meetings to discuss ways to realize the ambitious targets put forward in the Treaty. In this context, European Council meeting held at Vienna in December 1998 was an important one. Vienna Summit adopted an action plan regarding JHA. Indeed it “urge[d] the Council to start immediately with the implementation of the 2-year priorities defined in th[e] Action Plan” (European Council, 1998: point 83). It advised to speed up the integration of Schengen fully. Regarding migration and asylum, European Council reiterated ‘the need for global solutions as regards temporary protection and a system for European solidarity’. Indeed, it encouraged the JHA Council to spend more energy on temporary protection, European solidarity, EURODAC, rules on third country nationals and an overall migration strategy. Additionally, it endorsed the idea of setting up a High Level Working Group on Asylum and Migration. Parallel to other Union texts it underlined the importance of external borders and reinforcing their security. Finally, it gave a reference to another

European Council meeting to be convened in Tampere, Finland in 15 and 16 October 1999 to exclusively discuss JHA issues.

Vienna Summit stirred discussions in the Union among humanitarian groups as the Austrian Presidency submitted a controversial text about asylum seekers that mainly focused on keeping them out of the European area of freedom, security and justice rather than reflecting on humanitarian concerns. Although, this text was not adopted by the Council, the conclusions of the Summit had traces of this proposal similar to the legislations to be adopted in following years.

#### **2.4.2 TAMPERE SUMMIT AND THE ACTION PLAN**

A meeting was held in Tampere, Finland in October 1999 to further the aims set forth in ToA, by creating operational guidelines for action. The then Commission President Jacques Santer put forward the initial idea in 1998 that it might be useful to have a specific Summit for JHA. Later on this idea was reiterated at the informal European Council in Pörtlach in October 1998 and finally, as already mentioned it was accepted at the Vienna European Council. (Den Boer and Wallace: 2000: 517).

The only agenda of the Tampere Summit was JHA integration and it took the Union one step further in deepening the cooperation. Tampere revised the action plan adopted by the Vienna Council but also enlarged the remit of the Commission. Tampere action plan listed a series of concrete policy issues that the EU would tackle in each of these areas, and a provisional timetable for agreeing on related policies. This also created room for an activism of European Commission. It was expressed through its 'scoreboard' approach, which aimed to inform EU citizens about the developments taking place in this policy area but more importantly to embarrass the member state governments into action by setting out what measures had been taken by what date and what still needs to be done, which is sometimes rightly called 'name and shame' method (Hix, 2005).

As Tampere set the concrete guidelines for today's policies and also as it introduced the externalization of the JHA policies, it deserves detailed analysis.

Tampere attempted to strengthen JHA policy in several areas. First of all, it introduced a scoreboard approach to JHA, which means that the Commission publishes a biannual scoreboard, with which it declares the progress as well as things lagging behind. Secondly, it introduced some new bodies and structures, particularly in the areas of police and judicial cooperation. Indeed, it increased the role of EUROPOL. And finally one of the crucial points in Tampere programme was the expression of the desire to establish a Common European Asylum System (CEAS) based on 'full and exclusive' application of the Refugee Convention of 1951. Tampere, without doubt has been one of the first stage of establishing a CEAS, however, the EU's ambition in reaching the latter goal is disputable and indeed receives huge criticism. Indeed, some of the methods the EU promotes in establishing a European system undermine the established international refugee regime, i.e. the 1951 Refugee Convention and the 1967 Protocol.

Tampere conclusions reflected the traditional wording adopted since Amsterdam that put a clear focus on 'the demands of European citizens' to live in a free and secure Union. Indeed, this discourse has gained increasing currency to legitimize the deepening integration in JHA and it keeps coming up in EU documents. For instance, Tampere conclusion stated that

[t]he 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 to the frequently expressed concerns of citizens and has a direct bearing on their lives (European Council, 1999b).

In the same vein, the statement of Tampere that "people have the right to expect the Union to address the threats to their freedom and legal rights posed by serious crime" (European Council, 1999b) is a bold sentence as the loyalty of citizens and their expectations even in issues related to the very basic responsibility of nation

state is being moved upwards to the Union. It is interesting that the EU discourse aims to define the Union as the venue to ask for security in place of nation-states. This is a clear effort both to make the Union relevant for its citizens and legitimize its increasing integration in controversial JHA policies. The discourse is formulated in a way that shows increasing Union activism in internal security issues as a necessity, not just a preference.

Another crucial finding of the Tampere conclusions was the idea that the Union in JHA policies “should develop a capacity to act and be regarded as a significant partner on the international scene” (European Council, 1999b). This has laid down the groundwork for a more proactive international stance particularly on immigration and asylum. Furthermore, the idea of mainstreaming JHA policies to other policies of the Union was initiated. It called for using “all competences and instruments at the disposal of the Union, and in particular, in external relations must be used in an integrated and consistent way to build the area of freedom, security and justice” (European Council, 1999b). Once increasing integration is legitimized in the EU discursive formulations by being represented as a necessity and as a result of meeting expectations of European citizens, the next step was legitimizing the external dimension of the policy by claiming that source of insecurity is emanating from outside and willing to penetrate the ‘vulnerable’ borders of the Union.

To sum up, the main concern for holding Tampere Summit was to set concrete objectives and political guidelines for the implementation of ToA and it revised the action plan adopted in Vienna. Indeed, it constitutes one of the most ambitious programmes of the EU. After Amsterdam Treaty set the goal of achieving the area of freedom, security and justice, Tampere was the venue to set concrete goals for achieving it. Neil Walker critically and correctly contextualizes these developments and claims that

[...] we cannot understand the extensive scale and ambitious claims of the Tampere initiative apart from an appreciation of the growing desire in

many EU policy circles to find a new ‘big idea’ to mobilize support for the European Union at a point when the founding ideals of the Union –peace and prosperity- had lost some of their earlier freshness (if not relevance) and public opinion was becoming increasingly ambivalent about the legitimacy of increasing integration. Equally, ... the relatively (compared to other policy fields) significant developments in AFSJ competence proposed by the Convention on the Future of Europe are by no means unrelated to the broader cut and thrust of debate over the future course of the EU as a whole (Walker, 2004: 14).

Another Treaty revision took place with the Treaty of Nice. It was mainly designed to prepare the institutions of the Union for the next round of enlargement. An IGC was held in 2000 and the Treaty of Nice was signed in 26 February 2001 which came into force in 1 February 2003. What it brought for JHA was extending the number of policy areas that can be decided on a qualified majority voting system.

As the discussions above reveal, since Trevi was founded, which is now more than three decades, cooperation on JHA has gradually moved from the outskirts into the centre of integration agenda. However, the reasons and motivations behind this are controversial in the literature. In this context, one explanation shall be the efforts of certain member states to ‘Europeanize’ certain issues. Monar (2001b) argues that it is possible to find several examples in the history of integration where member states try to push a problem ‘upwards’ to the European level when they find it difficult to deal with it alone. He calls this process as ‘Europeanization’ of a problem and argues that this “can take various forms, ranging from bringing these issues on to the agenda of intergovernmental co-operation to a full communitarization of the respective areas” (Monar, 2001b: 756). He further argues that such a line of thinking applies to JHA cooperation “where interests of individual Member States faced with specific challenges at national level have played a key role in introducing or extending EU action into new areas” (Monar, 2001b: 756). German concerns related to migration and asylum issues might constitute an example.

However, on the other hand, this line of argument does not exactly overlap with neo-functional theories of integration. Den Boer and Wallace argue that

movement in [JHA] has come from intergovernmental integration, but with far-reaching scope: against all the conventional wisdom of neofunctionalist theories, yet driven by functionalist imperatives. This is a policy sector in which the Commission has never taken the lead, nor ever played a very active role. Member governments have rarely held coherent positions across different ministries and agencies. Successive presidencies have provided leadership, with the Council Secretariat providing continuity. National governments have responded to the consequences of regional integration for internal order and domestic law not as rational and strategic actors and as defenders of national sovereignty, but as incremental policy makers. Interior ministries, judicial authorities, and law enforcement agencies have begun to combine efforts and share expertise in what had previously been regarded as a core area of national sovereignty, in a way that has insulated their collective decisions from parliamentary and judicial review at both national and EU levels (Den Boer and Wallace, 2000: 516).

Den Boer and Wallace touch upon an important point by signing out the change of perspective and maybe a bit slower but a change of mentality as well among main actors in this process, such as ministries, police forces and customs authorities. Indeed, their position is more akin to a Foucauldian interpretation which refrains from identifying a capable planner directing the shape and future of policy. Instead, there seems to be network of bureaucracies interacting at the European level with different aims and visions. Ministry of interior and judiciary are generally the least international of national bureaucracies. Yet, according to Monar (2001b), these actors started to understand that fast economic integration is a reality that actually leaves them “in the same boat” with their colleagues from other member states. Particularly when the internal border controls were abolished it created a sense of mutual interdependence in agents working on JHA in different countries, which again allegedly created the need to share information and establish deeper co-operation. Monar argues such a consciousness primarily flourished strongly in Schengen countries “which had to build up, not only the necessary common mechanisms and standards, but also the confidence in each

other's capability to guard effectively their respective parts of the external borders of the Schengen zone" (Monar, 2001b: 755).

Again Monar argues that JHA cannot be only understood as a by-product of economic integration. On the contrary he argues it "have always been linked to more fundamental political objectives" (Monar, 2001b: 758). The abolition of internal borders though might seem initially as an economic aim, it was also quite related to the goal of creating a 'Europe of citizens' where they can move freely. Also, the target of increased security of citizens of Europe via effective crime control at a European level appeared in several legal texts of the Union since the 1990s. This process culminated with the ToA where in Article 2 all the concerns were integrated to a concrete policy objective and a common rationale with the statement for attaining an area of freedom, security and justice. Monar (2001b: 758) correctly argues "[t]his now ranks at least formally at the same level as, for instance, economic and monetary and the common foreign and security policy (CFSP)". Indeed, Vienna and Tampere Summits proved the determination of the Union in this policy area. "There can be no doubt, therefore, that the AFSJ has now been launched on a very broad scale" (Monar, 2001b: 758). A Foucauldian approach would prefer to focus, differing from Monar and others, on how questions rather than why this has been the case. To be more concrete, for instance, how this changing political ground in JHA policies is effecting micro and macro power relations? How is this policy field being governed? How is the discursal framework formulated? Who is it empowering, who the discourse is silencing and making invisible?

On the other hand, the broader the scale of integration becomes, the more complex its governance structures get. Lavenex and Wallace correctly state that "the problem is not only th[e] proliferation of agencies and bodies, which poses an increasing challenge of coordination, but also deficits regarding transparency or democratic and judicial accountability" (2005: 472). Similarly, Monar (2001b) warns of the costs incurred by JHA cooperation which are: deficits in

parliamentary control, deficit in judicial control, complexity and fragmentation, uneven development of policy areas, a tendency towards restriction and exclusion. “The consequence of the intergovernmental origins of today’s AFSJ has been that most of its *acquis* has been based on intergovernmental consensus favouring agreements on the lowest common denominator” says Monar (2001b: 761). The problem with the lowest common denominator, however, is that in most cases it was only possible to agree on restrictive measures. This becomes particularly evident in the area of asylum. It was much easier to agree for member states on the measures “reducing the burden on their asylum systems (such as the Dublin convention) than on the more ‘positive’ question of defining common minimum conditions for the reception of asylum seeker” (Monar, 2001b: 761).

In the meantime, this increasing integration in JHA have been accompanied by or even made possible by a legitimizing political discourse which lately centred on two tracks; the idea that the citizens of the Union have the right to demand from the Union to take measures to provide them a safe and free living. Secondly, and also incurred by the previous line of argument that ‘inside’ is safe and ‘outside’ is not. The dividing between the two is the frontiers of the Union, which is now guaranteed by the acts of the Union that centres on law enforcement and border protection. Such a line of reasoning obviously had exclusionary effects on both third country nationals and prospective members of the Union. Monar tactfully exemplifies this, which is worth quoting at length:

The Vienna action plan emphasizes that the new Treaty opens the way to giving freedom ‘a meaning beyond free movement of persons across internal borders’ and that includes the ‘freedom to live in a law-abiding environment’ protected by effective action of public authorities at the national and European levels (para. 6). The Tampere Conclusions continue this line of thought by describing it as the ‘challenge’ of the Amsterdam Treaty ‘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’, a project of which it said that it corresponds to ‘frequently expressed concerns of citizens’ (para.2). This is fully in line with the new objective of Art.29 TEU that the Union shall ‘provide citizens with a high level of safety’ within the AFSJ. The reference to

European citizens' 'concerns' adds a powerful claim to legitimacy to the AFSJ's further development. The Tampere Conclusions develop this further- even with a slightly populist undertone- by stating that 'people have the right to expect the Union to address the threat to their freedom and legal rights posed by serious crime (para. 6) (Monar, 2001b: 759).

Within such a background, September 11, 2001 events against the US created at least partial legitimacy and urgency to this discourse. JHA cooperation, to say the least, became much more 'meaningful' even to the harsh critics of further integration in this area. The reaction of the Union will be discussed in the following sub-section.

## **2.5 POST SEPTEMBER 11 EFFORTS**

The attacks against the US in 11 September 2001 created shock waves almost in all parts of the world including Europe. The seeming vulnerability of the world's remaining super-power that provided the security of Europe during the Cold War, compelled Europeans, to rethink about their security and gave a hand to the security agencies to further their agendas. This contributed in the dramatic turn of JHA to the agenda of European politics in the year 2001. According to Monica Den Boer and Jörg Monar (2002), September 11 was a big challenge for the EU as a 'security' actor: on the one hand, it had to stand side by side with its ally, on the other hand realize its promise of creating an area of freedom, security and justice for European citizens. Thus, it brought burden to and also a chance to test its second and third pillars rather than the well-integrated first pillar. Den Boer and Monar claim that "11 September must be regarded as the first truly 'cross-pillar test of the Union's role as a security actor, involving not only the second and third pillars, but even the first insofar as the fight was also against the financing of terrorism" (Den Boer and Monar, 2002: 11).

In this context, the initial reaction of the Union was adopting a 'joint declaration on terrorist attacks in the US' on 14 September 2001, just three days after the attacks. It was a move taken within the structures of the second pillar. Then, an

extraordinary European Council meeting was held on 21 September in Brussels, whose conclusions expressed a high degree of solidarity with Americans. However, it did not take long for this solidarity, at least partially, to vanish once the US decided on a military retaliation in Afghanistan. Moreover, the following US invasion of Iraq in 2003 shattered this sense of solidarity and also revealed the fragility of cooperation in the second pillar of the EU as European countries failed in adopting a common position. Despite the difficulties in the foreign policy domain, the Union was keen on furthering its cooperation on JHA even with the US.

On 19 November an official mission of the provisional Eurojust (the judicial counterpart to Europol) went to Washington and, in the margins of the Justice and Home Affairs Council of 6-7 December, an agreement was signed between the Director of Europol, Jurgen Storbeck, and US Ambassador Rockwell Schnabel, in the exchange of both strategic and technical information in the fight against a broad range of serious forms of international crime and the exchange of liaison officers (Monar, 2002: 14).

This close cooperation with the US, particularly on anti-terrorism, received criticism from human right activist groups as it later on encompassed areas like unlawful renditions through shadow CIA flights and exchange of information obtained as a result of torture in US prisons like the one in Guantanamo Bay (Guild et al. 2008).

On the other hand, besides the cooperation with the US, European countries took further initiatives to increase the cooperation on JHA at the European level. Anti-terror cooperation has taken a central place (again). The EU in a sense came back to where it started. Trevi cooperation, as discussed above, was an initiative to combat regional terrorism. So after almost three decades terrorism became a crucial concept for JHA cooperation once again. However, it could not go beyond some of the fault lines of Trevi. For instance, Den Boer and Monar (2002: 19) argue that, similar to the case with Trevi, it might be difficult to assess the efficiency of the EU anti-terror measures at least for two reasons: it replicates the

secretive logic and lack of accountability commonly adopted at the national level and the huge variety of actors involved in adopting measures.

By the year 2001 there were several initiatives that were on hold. However, “[t]he impact of 11 September was that existing arrangements were reinvigorated and that draft agreements sailed through apolitical window of opportunity” (Den Boer and Monar, 2002: 21). One of the initial steps was adopting a framework decision on terrorism at the 6-7 December 2001 JHA Council. Also on September 19 the Commission proposed a framework decision on arrest warrant (COM (2001) 522) on which an agreement was reached on 11 December, to further the decision taken in Tampere to abolish formal extradition procedures among member states (Anderson and Apap, 2002). This was planned to come into force in 1 January 2004. Besides these legislative changes, some institutional amendments were introduced by the JHA Council of September 20. For instance, a decision was taken to set up a counter-terror unit within Europol that works 24 hours; also a joint investigation team of Eurojust and Europol terrorism experts was decided to be set up. The EU Police Chiefs Operational Task Force that was set up as a result of the Tampere Summit was given the duty to take measures to fortify the security of external borders and indeed met three times during the year 2001.

The idea of fortifying external borders was part of the Schengen logic expressed through the notion of ‘compensatory measures’, however, here a more ‘securitized’ logic emerges that gives the freedom to resort various measures to ‘secure’ the external borders of the Union. In the same vein, Monar and Den Boer (2002: 20) correctly assert that “global terrorism has been introduced as the new horizontal security issue...the merging of internal and external security has received a new boost”. They continue that September 11

[...] acted as a catalyst for the homogenization of this security threat: first, terrorism was transformed into a global issue, second, ‘global terrorism’ was now to be regarded as a fluid and mobile network without clearly detectable lines of command; third, as intelligence and investigations revealed, the individual profile of the (would-be) terrorists not only

included fundamentalist fanatics, but also students with a regular residence status and citizens of western origin; fourth, terrorism was transformed into an exterior menace which thus justified military action; and fifth, it became a phenomenon rooted within most western multicultural societies. The last, especially, has enabled a discursive connection between open borders and immigration on the one hand, and calls for intensified monitoring of the possible cultivation of terrorists on the other (Monar and Den Boer, 2002: 25).

Thus, even before the September 11 events the JHA cooperation was already on the way to establishing and reifying the notion of ‘internal security’ and now with the almost paranoid ‘homeland security’ conceptualization of the US brought with it the possibility of creating similar sentiments in Europe. Den Boer and Monar (2002), similar to many others argue that there were already signs of ‘securitization of fields of justice and home affairs’. For instance the Council in its conclusion of 20 September 2001 asked the Commission to examine ‘the relationship between safeguarding internal security and complying with international protection obligations and instruments’. Indeed, “the conclusions of 20 September abounded with security-driven restrictive objectives such as ‘utmost vigilance’ in the issuing of residence permits, the ‘immediate strengthening’ of surveillance measures” under the Schengen Convention (Den Boer and Monar, 2002: 27).

Monar (2003) argues that the hectic activism of late 2001 did not last till the end of the year 2002. Some important developments took place regarding asylum policy; member states in December 2002 accepted a regulation commonly known as the Dublin II Regulation, which did not bring much novelty to Dublin Convention apart from aiming to do away with its gaps. The main purpose of Dublin II was again to define the responsible member state in asylum applications. Moreover, to get closer to the ideal of common asylum system aimed as a target in the Tampere conclusions, the Commission created an EU network for asylum practitioners (Eurasil), which provided a platform for information exchange on asylum and immigration (Monar, 2003: 121). It meets between six to eight times a year at the European Commission.

Fight against immigration has been a topic where reaching an agreement has been relatively easy; yet it might be possible to claim September 11 events made it even easier. In February 2002 the Council, following the Commission's Communication on a *Common Policy on Illegal Immigration* prepared in November 2001 (European Commission, 2001), adopted a *Comprehensive Action Plan to Combat Illegal Immigration and Trafficking in Human Beings*. It introduced several measures such as consolidation and codification of common rules for external border controls, establishing several co-operation mechanisms like the European Corps of Border Guards and a financial burden sharing mechanism.

However, it is important to note here that the security language was prevalent in the plan and shortly after its adoption "illegal immigration rapidly moved higher on the Union's agenda" (Monar, 2003: 122). Following months saw tense discussions on how to manage migration flows and the ways to cooperate with third countries. On 13 June 2002 the Council adopted a plan called the *Plan for the Management of the External Borders of the Member States*, which adopted most of the Commission's previous proposals. Shortly after that, the conclusions of the Seville European Council held on 21-22 June 2002 also mentioned about 'carrots' as well as 'sticks' that shall be used against countries of origin. Also it was agreed to set targets for introducing an integrated management model for external borders. Monar argues that

Seville and the range of measures taken during the year [2002] clearly meant that the EU was moving sharply towards a more restrictive approach in its management of migratory flows, being more willing than ever before to use external relations instruments to tackle challenges in this domain (Monar, 2003: 123).

In the meantime, preparations for another major Treaty revision were taking place. Indeed, it proposed major changes regarding JHA policies.

### **2.5.1 CONSTITUTIONAL TREATY AND THE 2003 IGC**

Concerns regarding deepening of the Union were moving side by side with widening. Indeed in early 2000s the main concern of the Union became the prospective enlargement and its effects on institutions and policies. Although Nice Treaty brought certain changes in to prepare the Union for enlargement, there were still concerns that it could have been inadequate (Allen, 2004). Thus, at Nice a process to discuss the future of the EU was initiated. Till then all the Treaty revisions took place as a result of IGCs, which means under the strict control of governments. “However, with the drafting of the Charter of Fundamental Rights, which was also proclaimed at Nice, a new procedure was attempted and a self-named Convention undertook the preparatory work with notable success” (Allen, 2004: 18). This method of Convention was copied for the preparations of the 2003 IGC. Reforming the JHA was one of the main issues among the works of the Convention. Indeed, a specific working group was formed for this end which met nine times and proposed a reform package in the end (Monar, 2003: 119). The proposals centred on two tracks; bringing a unified legal framework for JHA which meant eradicating the pillar structure and separating “legislative and operational tasks” (Monar, 2003: 132).

Despite, several other proposals both regarding JHA policies and the whole functioning of the Union at large, the Constitutional Treaty, adopted as a result of the IGC, faced with misfortunes during the ratification process in France and the Netherlands. And its destiny was not decided quickly. A modified version of the Constitutional Treaty, called the Lisbon Treaty was adopted at the Lisbon Summit in 13 December 2007, and entered into force only in 1 December 2009 once every member ratified it. A major change in JHA was foreseen with the Lisbon Treaty by extending the role of Parliament in decision making and the jurisdiction of the ECJ almost to all policy areas.

While the fate of Lisbon was being negotiated, in the meantime, separate from the efforts about Treaty amendment, new legislations were being adopted. The first multi-annual JHA programme adopted in Tampere for the coming five years ended its term in 2004. The Union convened another meeting in 2004 to adopt the second multi-annual JHA programme which is called the Hague Programme. Without doubt the September 11 events had a clear influence on this programme as well.

### **2.5.2 THE HAGUE PROGRAMME (2004- 2010)**

European Council adopted *The Hague Programme for Strengthening Freedom, Security and Justice in the European Union* on 5 November 2004. The programme sets out the roadmap for the next five years after stating the achievements of the previous five years and the determination of the Union to further its goals. The priorities of the Union to establish an area of freedom, security and justice has been legitimized again with the claim that this is one of the main concerns of the citizens and thus the programme responds to this concern of the peoples in member states. Furthermore, the text has an explicit reference to the September 11 events and it states that

[t]he security of the European Union and its Member States has acquired a new urgency, especially in the light of the terrorist attacks in the United States on 11 September 2001 and in Madrid on 11 March 2004. The 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. Notably in the field of security, the coordination and coherence between the internal and the external dimension has been growing in importance and needs to continue to be vigorously pursued (European Council, 2004a: 3).

The link between internal and external security was initially established with the Schengen Agreements and since then it has been emphasized in several occasions. In such an understanding external borders gain a crucial function and importance in separating the inside from the ‘insecure’ outside. Indeed, this crucial link

between external and internal domains is best revealed through ‘foreigners’, i.e. (illegal) immigrants and asylum seekers. In the field of immigration, asylum and border management the Hague Programme contains ambitious targets. After reminding the importance and relevance of these policy areas the Programme puts forward the following targets;

- by 2010, a common European asylum system with a common procedure and a uniform status for those who are granted asylum or protection;
- measures for foreigners to work legally in the EU in accordance with labour market requirements;
- a European framework to guarantee the successful integration of migrants into host societies;
- partnerships with third countries to improve their asylum systems, better tackle illegal immigration and implement resettlement programmes;
- a policy to expel and return illegal immigrants to their countries of origin;
- a fund for the management of external borders;
- swift establishment of the ‘second generation’ Schengen Information Systems (SIS II) and Visa Information System (VIS);
- common visa rules, increasing the use of biometrics and information systems (including maximising effectiveness and *interoperability* of these systems), as well as cross-border exchange of law enforcement information (Baldaccini and Toner, 2007: 18).

Among several items in the Programme, ‘External Relations’, where the “Council considers the development of a coherent external dimension of the Union policies on freedom, security and justice as a growing priority” (European Council, 2004a) is a crucial one. Indeed, the Council asks the Commission to prepare ‘a strategy covering all external aspects of the Union policy on freedom, security and justice’ before the end of 2005. Here, ‘externalization’ of JHA policies which started particularly with Tampere became more institutionalized. Elspeth Guild et al. (2008) claims that the conceptual bases of the Hague Programme can be summarized under three points. First of all, “it presents a blurring of the scope and division between measures dealing with FSJ. Second, it advocates an expansion, predominance and strengthening of the security dimension over the other two rationales” (Guild et al., 2008: 7-8) which means tilting the balance between

liberty and security in favour of the letter and lastly a critical understanding of security was provided “according to which the security of ‘the European Union and its Member States’ takes precedence over the liberties and security of the individual, and it is this last understanding that functions as the guiding value” (Guild et al., 2008: 7-8).

The European Commission, transposed this Hague Programme adopted by the Council to a concrete action plan on 10 May 2005 and launched its 5 year Action Plan for Freedom, Justice and Security. It had detailed proposals for EU action on terrorism, migration management, visa policies, asylum, privacy and security, the fight against organised crime and criminal justice. Thus, the priorities of the Council have been transformed into solid action plans with a specific timetable that will be examined and followed through the Commission’s scoreboard approach. It identified ten key priority action areas which are: fundamental rights and citizenship; the fight against terrorism; migration management; internal borders, external borders and visas; a common asylum area; integration of migrants; privacy and security in sharing information; the fight against organized crime; civil and criminal justice: an effective European area of justice for all; freedom, security and justice: sharing responsibility and solidarity.

### **2.5.3 STOCKHOLM PROGRAMME (2010-2015)**

Another major programme following Tampere and Hague has been the *Stockholm Programme: an Open and Secure Europe Serving and Protecting the Citizens*, for the years 2010 and 2015 designed under the Swedish Presidency (European Council, 2009). Again similar to previous ones the aim of the new programme was stated as establishing a ‘secure’ and open Union that serves the citizens of the Union. There is again a clear emphasis on security, but compared to Tampere and Hague there is an increasing stress on fundamental rights as well (Özgür and Özer, 2010: 87).

Stockholm Programme offers some new methods in facilitating the implementation of the existing border management model, such as developing a new electronic device to record entry and exit from the border gates of member countries or electronic border gates in airports. The Programme reconfirms the perspective of seeing migration and asylum policy as part of Union's external relations and stresses the importance of furthering relations with countries of origin and transit. There is a tendency to rely much more on new technologies, particularly "computerised systems of information exchange and data processing. These, in turn, are largely defined in terms of the priorities and viewpoints of security professionals" (Bigo and Jeandesboz, 2009). Although there is a clear reference to the data protection rights of EU citizens, rights of third country citizens and people in need of international protection is not as clearly stated. Bigo and Jeandesboz criticize the document for locating border related issues to the external dimension section, while actually "border control and surveillance policies arguably link back into the EU's internal security policies" (Bigo and Jeandesboz, 2009: 3).

The programme also reiterates the goal to establish the Common Migration and Asylum Policy by mid 2012. The programme underlines the need of the Union for migrant labour force for sustaining economic development but also highlights the necessity to control illegal immigration. It mentions setting up a balance between three areas: promoting mobility and legal migration within the Union, optimising the link between migration and development and preventing and combating illegal immigration (Özgür and Özer, 2010).

To sum up, this chapter provided a quick historical overview of the evolution of JHA policies. The literature on JHA, particularly on migration and asylum can be broadly categorized under two groups; a more mainstream and less critical approach that celebrates the integration in JHA and secondly the group that has a rather critical gaze towards JHA policies and inquire the meaning of 'freedom, security and justice' and its impact on the citizens of the Union as well as third

parties including neighbouring countries and new members. The thesis belongs to the second category.

Cooperation in JHA dates back to 1970s which was on a smaller scale and within a limited scope. Later on however, ‘side-effects’ of deepened economic cooperation was declared as a major concern for furthering integration. The phrase ‘compensatory measures’ to prevent negative side-effects of a borderless Europe was used, both as a result of 1992 programme and the Schengen Agreements. Maastricht formalized the ‘archipelago-like’ cooperation structure and brought it under the official EU framework without changing much of the decision making structure or responsibilities of member states. However, Amsterdam Treaty was a big leap forward in terms of further integration in JHA. Issues of asylum and immigration were the ‘winners’ of further cooperation of Amsterdam. After 1999 the EU took several initiatives to realize now the explicit goal of having an ‘area of freedom, security and justice’, not necessarily in this order though. Tampere Programme strengthened the European Commission’s hand compared to member states. September 11, 2001 events played into the discourse to speed up the efforts in JHA cooperation. The shock waves created by September 11 and following 9/9 bombings in London and in Madrid helped governments legitimize further cooperation at the European level. During this processes, security experts and bureaucracy were the active agents many times behind the scene. This integration created a new European network of security professionals and allowed them to share their professional concerns both among themselves and with politicians. Their ‘knowledge’ in security affairs results in the creation of new power relations.

A crucial issue in JHA has been the change of focus particularly after Tampere, which can be taken as a moment of ‘externalization of JHA’ policies. JHA already had many fault lines such as the deficit of democratic and judiciary control over policy making and implementation and the general increasing weight of security as opposed to liberty created quite rightly some concerns in several circles. The

evolving discourse revealed particularly immigrants and asylum seekers as potential security threats in an environment where insecurity originates from outside the Union, but can find gaps to infiltrate the borders of it. Thus, externalization has been represented as the way to ‘fight’ with this threat. Similarly, as further integration was achieved in police-cooperation and as the institutions proliferated at the European level, now the EU started to establish a ‘protection zone’ around itself by using different techniques. Therefore, the EU especially after Tampere started to focus on the external dimension of JHA policies and commenced to imagine ways to ‘fight’ dangers before reaching its border. Recently adopted Lisbon Treaty strengthened the role of Commission in achieving its goals. The next chapter will introduce a conceptual toolkit to understand these developments in Europe.

## CHAPTER III

### EUROPEAN (INTERNAL) SECURITY AND CRITICAL SECURITY STUDIES

*...For a prince should have two fears: one within, on account of his subjects; the other outside, on account of external powers. From the latter one is defended with good arms and good friends; and if one has good arms, one will always have good friends. And things inside will always remain steady, if things outside are steady, unless indeed they are disturbed by a conspiracy, and even if things outside are in motion, provided he has ordered and lived as I said, as long as he does not forsake himself he will always withstand every thrust...*

Niccolo Machiavelli, *The Prince*<sup>2</sup>

#### 3.1 INTRO

With the abrupt end of the Cold War, half-century long bipolar world order discourse, almost over a night, found itself in the dustbin of history accompanied by its unique security concerns. This created room for issues other than nuclear warheads and deterrence to enter into the agenda of international politics. Although, the end of the Cold War made scholars travel ‘without maps’ for more than a decade, not knowing what comes next; 11 September 2001 attacks against the US brought an end to this ‘interregnum’ to put it in Antonio Gramsci’s words, where the ‘old system was dying but the new was yet to be born’ (Booth, 2007). After the September 11 events, a new mental map was drawn for security scholars; facing a world that is full of ‘risks’ by dealing with weak and rogue

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<sup>2</sup> Quoted in (Pastore, 2001: I).

states as well as fighting with transnational criminal networks. Machiavelli's above quoted lucid distinction between the internal and the external and his advice on how to attain security is becoming more and more difficult to maintain in a globalizing neo-liberal world. Increasing pace of European integration also accentuates this feeling of being in danger where borders are porous.

This change in conceptualization of security was already started to be discussed both by law enforcement agencies and political thinkers, willing to go beyond the straightjacket of Realism, by late 1980s, well before 11 September 2001. Three separate processes particularly imprinted discussions in Europe; end of the Cold War, globalization and deepening European integration. New conception of security on the one hand meant to widen and deepen the meaning of security and on the other hand it linked broad categories of activities varying from terrorism, drug trafficking, organised crime, trans-border crime, illegal immigration, asylum seekers, and minority ethnic groups. This conception, thus, represents a variety of different problems as elements of one general security threat, which is called a 'security continuum' (Bigo, 2000b).

The previous chapter provided a historical overview of the increasing integration in the EU to establish a European area of freedom, security and justice, where the welfare and security of European citizen is claimed to be guarded. As for deepening European integration, it is necessary to identify several processes going on simultaneously. One of them is the increasing integration on JHA policies, the other is securitization where, freedom, security and justice policies inside the Union is being 'securitized' which links not only to integration at the European level but also to globalization discourse. Finally, externalization of JHA policies where the EU 'externalizes' the problem, that is, it defines the problem that should be tackled outside the Union before reaching its borders.

This chapter discusses the conceptual framework to interpret separate yet closely linked developments: the discourse on changing nature of European security

linking external and internal security that is claimed to emerge as a result of increasing pace of globalization and regional integration, particularly the evolving link between border control, migration and security in Europe and the EU's creative strategies to manage its security by re-ordering both inside and outside. Therefore, the chapter is build on two main assumptions; the EU is becoming more actively involved in internal security issues both internally and externally as a result of increasing stress on permeability of borders partly due to increasing integration but also leading to more integration which adopts a cross-pillar approach to security that blurs the distinction between internal and external security. Secondly, some of its actions in this context contradict with its general liberal and liberalizing image of the Union. Its actions inside and outside differ somehow. Here, liberalism and its methods to govern populations also need further attention. There is more complicated interaction between liberalism and security practices. Therefore, seeing the process of governing through a different is necessary which can be provided by Foucault and his concept governmentality.

The chapter will first introduce the changing conceptualizations of security in security studies literature by focusing on Critical Security Studies (CSS). It will also review CSS literature by focusing on the 'new security threats' or as sometimes called 'soft security' issues, societal security, particularly migration and border management. The arguments about Europeanization of internal security and securitization of migration have found a large audience among both CSS and European studies communities. Then it will discuss more traditional perspectives on European security and changing conceptualisations such as security governance that focuses on the different nature of the Union as a security actor. This particularity of the Union emanates from its liberal goals and character that renounces use of military force and stresses the wellbeing of its citizens and ability to set up new norms. It will be argued that European studies literature and CSS needs a deeper understanding of power and liberalism. Thus, Michel Foucault's discussions on power and governing will be introduced. Paris School

of CSS, which already employs Foucault as a launching pad, will follow this and clarify the link between Foucault, European security and CSS.

This work aims to unpack the discursive formulations enabling the link between migration and security, securitization discussions, locate them within a broader CSS perspective and will propose to polish the role of Foucauldian thinking in this debate parallel to what Didier Bigo of Paris School and Jef Huysmans argues. However, it will go beyond the arguments of Bigo and others by linking all these discussions to the EU's security governance efforts through its external relations. Particularly Bigo (2000b, 2006) and Huysmans (2006a, 2006b), among others, critically inquire the developments in JHA field or the internal security field. However, they have not paid enough attention to the evolving external dimension of these policies, how the EU aims to govern populations beyond its remit.

On the other hand, the literature on external relations of the EU fails to theorize and analyse the more complicated functioning of power and the practices through which it operates. Moreover, one is faced with a caricatured world with states inclined to use 'hard power' versus EU as a 'civilian power' or a rather simple celebration of new liberal modes of governing such as governance. However, it will be argued that the concept 'power', contrary to its relatively unproblematic place in the EU literature, needs to be further discussed. It will be argued transnationalization of internal security and border controls and particularly externalization of migration and asylum policies, increasing and unproblematic role of security professionals create new forms of power relations as well as new subjectivities, which deserve further scrutiny. Similarly, it will be argued that though many of external governance or security governance discussions are useful they lack the critical dimension and fail to question the power relations in detail.

### **3.2 CRITICAL SECURITY STUDIES: EUROPEANIZATION HAND IN HAND WITH SECURITIZATION?**

Until recently the main interest area of International Relations (IR) has been preventing wars and survival of states in an anarchic environment. The ‘Idealists’ as the founding fathers of the discipline, aspired to achieve security through peace, by eliminating wars. On the other hand, Realist school of thought, pioneered by E.H. Carr and Hans Morgenthau, asserted that the anarchic nature of international relations could not be changed. Thus, the only way to attain (national) security is through power. Hence, they are inclined to perceive security as a derivative of power defined in terms of military capabilities (Buzan, 1991). The vicious Second World War and then the Cold War made it easier for Realism to fortify its hegemony. However, with the 1980’s and 1990’s it became clearer that Realist assumptions were not enough to explain nor to change the developments in international politics. New discourses started to challenge the old ‘commonsense’.

In 1980s, IR discipline experienced a meta-theoretical debate, what is called the ‘third debate’ by Yosep Lapid (1989). According to Lapid third debate “stimulated self-reflection in IR and by use of closer connections to meta-theoretical debates elsewhere in the social sciences furthered a revolt against positivist leftovers” (Waever, 1996: 157) and thereby revealed other measures for objectivity and science. Moreover, Waever claims it was followed by a ‘fourth debate’ where inspired more from the developments on other branches of social sciences, the relationship between language, politics and praxis is being questioned. This work can be located in this opening that inquires the language, politics and praxis of the EU on internal security, particularly illegal immigration and asylum.

Although with the end of the Cold War, IR experienced a transformation in terms of its interest areas and its main foundations Keith Krause and Michael C.

Williams correctly claim that "...security studies...has been among the last bastion of orthodoxy in International Relations to accept critical or theoretically sophisticated challenges to its problematic" (Krause and Williams, 1997: vii). However, as established concerns of international security became redundant almost overnight, security studies eventually hosted a vibrant intellectual debate particularly in Europe. There were already alternative approaches to security even during the Cold War such as the peace research, but they remained relatively marginal and failed to shape the mainstream discourse. However with the end of the Cold War, all the previously relatively unquestioned ontological and epistemological ground was taken from under the feet of Traditional Security Studies (TSS), leaving its place to critical thinking inspired from the post-positivist turn in IR as well as other disciplines of social sciences such as political theory and sociology (Booth et al, 1996).

What emerged has been named CSS. This soul searching in security initially focused on two issues; incorporating areas other than military to the field of security studies such as environment, society or economy, which is also called widening security and secondly questioning the privileged position of the state as the referent object of security which is called the deepening of security (Wyn Jones, 1999). Thus, the central problematical issue was linking security only to the state and militaristic means. For CSS, such an understanding that is securing the state, was insufficient and even counterproductive. However, despite the unanimity about the need to broaden the understanding of security by challenging TSS, there does not exist *a* shared view in defining what security is and how it should be studied (Williams and Krause, 1997: 34). Thus, it is possible to claim that CSS has been a broad church, far behind constituting a uniform and homogenous group of ideas.

Nevertheless, there are several attempts to cluster different approaches in a meaningful way under the title CSS. One recent example is the article *Critical Approaches to Security in Europe* (2006) co-authored by different groups working

on security calling themselves as CASE collective. Following Ole Wæver's (2004) classification, it groups critical security studies in Europe under three schools: Aberystwyth, Copenhagen and Paris, all three of which vividly contributed to meta-theoretical discussions in the discipline. Aberystwyth, hosts the names such as Ken Booth who, inspired by neo-Marxist thinkers of Frankfurt School, initiated groundbreaking ideas about the way one should think about security. Its main line of argument is questioning the central location of state as the reference of security and highlighting structural insecurities around the world. This is quite appealing for this work as it prefers particularly to understand insecurities of illegal immigrants and asylum seekers rather than states or just European citizens. On the other hand, Copenhagen School of Barry Buzan and Ole Wæver first took a very simple yet surprisingly untaken step; inquiring the meaning of security in depth and after that bringing in the idea of compartmentalizing security by introducing other sectors than military. Another major contribution of Copenhagen School, but particularly of Ole Wæver was introducing discourse to security studies through his concept securitization. According to Wæver, securitization is a process of bringing an issue to the domain of security politics as a result of successful speech acts. Finally, Paris School, inspired from the depth of French political theorists such as Michel Foucault or Pierre Bourdieu, highlighted the broader conceptualization of discourse and the role of security practitioners in producing 'insecurity'. They also draw attention to 'politics of security' and reflected on the concept of risk and its relation to security. CASE collective correctly summarized the relation between three schools as follows

The first encounters took place between scholars associated with the Aberystwyth and Copenhagen schools. Both schools have strong roots in political theory, as well as IR debates and their repositioning in relation to peace research and strategic studies. The third group of academics, referred to as the Paris School, has its roots not in IR but in political theory and the sociology of migration and policing in Europe (CASE, 2006: 446).

This work locates itself within the lines of Paris School as it aims to interpret the developments in Europe regarding internal security, politics of migration and border control. However, three schools were in constant dialogue and indeed, Copenhagen School's concepts like societal security and securitization have functioned as a stepping stone for the Paris School. Thus, before discussing the arguments of Paris School in detail it is a must to briefly mention the main lines of arguments of the other two.

As already mentioned, TSS took the meaning of security for granted for decades. Even in 1991 Stephen Walt was claiming that security studies is "... the study of the threat, use and control of military force. It explores the conditions that make the use of force more likely, ... and the specific policies that states adopt in order to prepare for, prevent, or engage in war" (Walt, 1991: 212). This is a very limited definition especially when considering the EU and the use of military force.

Behind this backdrop, Barry Buzan's 1983 (re-printed in 1991) book *People, State and Fear* was a brave example of trying to go beyond the TSS and attempting to redefine and subsequently broaden the concept of security. Similar to Arnold Wolfers, who discussed in detail the meaning of national security early in 1950s, Buzan reached the conclusion that security is an essentially contested concept. It does not mean anything when used on its own, but it needs a referent object to refer to. Buzan identifies three levels of security; individual, national and international but also notes that national security, i.e. state, is capable of controlling 'other levels'. Combined with the Realist idea that the international system is anarchic, he reaches the conclusion that states must be given the priority. He claims that "since the security of one referent object or level cannot be achieved in isolation from the others, the security of each becomes, in part, a condition for the security of others" (Buzan, 1997: 26). He does not reject the idea that the state can also become the major source of threat to individuals but nevertheless he argues that there exists a trade off between freedom and security.

Thus, to become more secure one must accept to become less free. Buzan builds his argument on the social contract theory and the notion of 'state of nature', being the natural result of lack of authority. And his claim for the trade off between security and freedom is a direct result of Hobbesian argument that one's freedom can be a source of insecurity for another person. Thus, state would be the balancing actor between freedom and security among its citizens. With state there is no escape from conflicts between individual security and national security. For Buzan, the problem is not state itself but some kinds of states; namely weak states which have internal problems of socio political cohesion.

One of his arguments to legitimise the state as the referent object is its capacity for being the main and only 'subject' to provide security. As there is no alternative agent for providing security it brings an 'ontologically prior' situation. However, Steve Smith suggests "seeing state ontologically prior makes state to get under-theorized and privileged" (Smith, 1991; 334) Therefore, despite Buzan starts with criticizing a militarised understanding of security and tries to go beyond it both by questioning the meaning of security concept and by classifying the security agenda into five sectors (political, environmental, societal, economic and military), he can only contribute in broadening security. He ends up constructing a theory of security around state as the core referent object. This perspective thus finds the developments at the European Justice and Home Affairs field problematical, because the EU is an anomaly in this sense by being beyond the states. Or another interpretation would be the tendency to see the EU more as a state-like structure and privileging the security of the EU.

On the other hand, for Aberystwyth School when one speaks about security, the question 'security for whom' should follow. Security can only be thought of in reference to an object. Richard Wyn Jones argues that although differences do exist among TSS thinkers, all share the same ontological and epistemological assumptions. They all see the world from statist lenses, which Buzan also ends up adopting, though a bit more self-consciously. For Wyn Jones "all the arguments

[of TSS] have been premised in a *scientific objectivist* understanding of knowledge” (Wyn Jones, 1999: 95). Therefore for TSS, looking from a Realist viewpoint, the state, without controversy, had been the main referent object. This view was a product of the implicit idea that state deserves to be given a higher value compared to other actors (Wyn Jones, 1999: 95). “The conception of state action as the instrumentally rational pursuit of self-interest is the foundation of theoretical analysis for the neorealist approach to security studies” (Williams and Krause, 1997: 40). However, for Wyn Jones, this assertion can be challenged both empirically and on normative grounds. Failure of Realist thinkers in predicting the demise of the Cold War and rather peaceful dissolution of the USSR is the basic proof for the inadequacy of Realism. Disregarding the internal politics of the state and concentrating only on the state-system interaction is one of the premises of TSS. Therefore, the need to open the ‘black box’ requires questioning the rationality assumption as well. For Wyn Jones, Realism’s epistemological claim for providing the ‘objective’ truth is also problematical. Of course, his assertion should be evaluated within the broader post-positivist approaches in IR. Claims for describing the world ‘as it is’ and possibility of disassociating observer from the observed have been rightly questioned in the third debate.

Parallel to Wyn Jones, another member of Aberystwyth School, Ken Booth asserts that states are “unreliable, illogical and too diverse in their character to use as the primary referent objects for a comprehensive theory of security” (Booth, 1991: 320). They are unreliable in the sense that, differing from theory, in reality states may be a source of threat instead of security for their citizens as is the case for refugees. Also state as the object of security can be seen ‘illogical’ since the main idea behind establishing states was to serve citizens. Thus, for Booth, having the state before the human would mean giving the priority to the means instead of the ends which is unreasonable. For him, “CSS has the radical aim of rethinking and reconstructing security in world politics from the bottom up” (Booth, 2007). It envisages a radically different political theory and methodology, which has the human agency at its core. (Booth, 1997: 106). Rather than power or order,

emancipation which “mean[s] freeing people, as individuals and groups, from the social, physical, economic, political and other constraints that stop them from carrying out what they would freely chose to do”, should be the main goal of security studies (Booth, 1997: 110). On the positive side of having the individual as the referent of security, an inside\outside dichotomy can be avoided. Since the individual is the smallest unit for analysis, it becomes impossible to speak about ‘us’ and ‘them’. The problem of being secure at the expense of someone else’s insecurity is therefore averted. As a second positive side, it creates the room to prevent situations that threaten individuals, through “reifying structures that impinge on individual security” (Wyn Jones, 1999: 115). This approach is quite insightful when applied to the case of illegal immigrants and asylum seekers in Europe. For the ones inside the Union, that is European citizens inside/ outside dichotomy seem to be evaded to a certain extent. Practices of the EU, however, create insecurities for outsiders that will be discussed in following chapters.

However, Booth’s approach also received criticism. One of the critiques was against his defining individual in atomistic terms as outside the social context. “This ignores the concept of identity as shaped by interaction with others and with the state institutions” (Shaw quoted in Wyn Jones, 1999: 114). As McDonald argues, “treating individuals as the referent object of security does not always represent the best means of understanding a particular situation of insecurity, or redressing it” (McDonald, 2002: 281) For McDonald, sometimes the security of individuals can be threatened just because of belonging to a particular group, which can be exemplified best by refugees facing persecution in their home countries for belonging to a certain group. Thus, thinking of the individual in isolation would lead us to miss out some important points as the role of identity. Another valuable criticism about individual security would be asking how to realize it. (McDonald, 2002: 280) Of course this question has the implicit assumption that privileges praxis to theory, and forces one to think how relevant theory is to policy. Though it may be labelled as a critique of Realist way of thinking, some others are also sceptical about individual security in the sense that

it may lead one to see the state as the only agent to provide security, which brings us to the same launching point as TSS (Krause and Williams, 1997: 46). Martin Shaw approaches the issue from a different perspective by commenting that Booth, despite criticising Buzan, “poses the question in very much the same way.., individual versus state: the difference between them lies in the answer” (Shaw, 1993: 167). Neither Buzan nor Booth attempts to examine the relationship between state and individual. And they both build their arguments upon the existing theories of IR and do not resort to other disciplines such as Sociology. With this claim Shaw tries to emphasize other possible referent objects, specifically the society. This brings us to a concept introduced by the Copenhagen School; societal security (Waever, 1993).

Societal security is one of the five sectors of security introduced by the Copenhagen School. For Waever, in order a society to be differentiated from an ordinary social group there must be the feeling of ‘we’. “A nation is a special case of society, which is characterised; affiliation to a territory, a combination of present time community with a continuity across time and finally a feeling of being one of the units of which the global society consists.” (Waever, 1993; 21) In Waever’s argument, the security of state and the security of society are different. Securing the state means, securing the survival and the sovereignty of the state, while securing the society means securing the particular identity of groups. He continues by claiming that if the state is a nation state that is if the ethnic structure of the society overlaps with that of the state then societal security would go hand in hand with the security of state, but if not then there arises the possibility of contradicting securities. The modern nation state is rather a new concept compared to societies and it is just a tool, which has been transformed through history, and can also change in time which, for some, is the case in Europe. Also it is analytically useful since unrest inside a society bears the possibility of spreading beyond the borders of territorial state and having repercussions at the regional or international level. Thus, securing societies can be seen as a way of preventing bigger problems. On the other hand, Waever’s argument bears

weaknesses as well. First, his conceptualisation creates a kind of problem. He equates nations with society, which may be criticized on the grounds for being a narrow understanding. Also he adopts a holistic argument that society is made up of individuals but it is something more than the sum of the parts and different from the parts. But then he continues by claiming that when the society will be secured this would mean security for both individuals and other groups.

On the other hand, Waever et al. argues in early 1990s that societal security is the most effective conceptual tool to understand the new security environment in Europe (Waever et al. 1993: ix). Moreover, they state that when the idea societal security was first formulated it was a highly abstract idea, however soon they found themselves “surrounded by an ever more concrete reality of societal insecurity in play” (Waever et al., 1993: ix). For instance, the Danish rejection of the Maastricht Treaty, the attacks against refugee hostels in Germany, ethnic cleansing in Yugoslavia are given examples that prove societal security has “moved to the centre of the political stage” (Waever et al., 1993: ix). Waever summarizes his idea by stating that “[i]f it is societies that are the central focus of this new security problematique, then it is the issue of identity and migration that drive the underlying perceptions of threats and vulnerabilities. Societies are fundamentally about identity” (Waever et al., 1993: 5). Parallel to Waever’s argument Buzan claims that “[t]he security of a society can be threatened by whatever outs its ‘we’ identity into jeopardy” (Buzan, 1993: 42). Societal security’s conceptualization of identity is quite problematical, as it refers to an essence about an identity, as if a space and time free identity exists. Indeed, societal security is a ‘dangerous’ concept in the sense that it can legitimize increasing linking of migration with security in Europe and provide tools for right wing groups in formulating migrants and asylum seekers as threats.

On the other hand, a crucial problem here is who is going to decide that ‘we’ are being threatened? An interesting answer to this question can be found in another innovative concept of the Copenhagen School; securitization. In the year 1998,

Barry Buzan, Ole Waever and Jaap de Wilde published another book called *Security: A new framework for analysis*. It aimed to be a compact source for the ideas of Copenhagen School and was built around two important conceptual developments: Barry Buzan's notion of sectoral analysis of security and Ole Waever's concept of 'securitization'. Waever starts by asking a simple question: 'what makes something a security problem?' His answer is also shockingly simple "something is a security problem when elites declare it to be so" (Waever, 1995: 54). He defines security as a *speech act*. Contrary to Buzan's Realist line, Waever adopts a post-positivist stance that approaches security at the discursive level, according to which "[...] the actual definition of security depends on its successful construction in discourse" (Hansen, 2000: 288). For such an interpretation "security is not of interest as a sign that refers to something more real; the utterance *itself* is the act" (Waever, 1995: 55). Securitization denotes, portraying a problem as an 'existential threat', i.e. a threat to the existence of a particular referent object which has a legitimate claim to continue its existence and making the relevant audience believe in that discourse. Acceptance of the audience will legitimise taking measures beyond the daily routines, putting the issue on top of the agenda and even breaching the rules which would normally be binding for the securitizing actor(s).

Thus, employing a concept of linguistics, Waever labels security as a 'speech act' and a 'label' itself. Starting his journey by considering security as a concept and a word, Waever ends up with the post-structuralist conclusion that what is important is how the label security is being used by being attached to several referent objects (Waever, 1995: 50). Therefore, the concern of the analyst is no more to find or grasp the 'objective' threats to security, "rather it is to understand the process of constructing a shared understanding of what is to be considered and collectively responded to, as a threat" (Buzan, 1997: 14). In view of this discursual formulation of security, Waever himself becomes a part of securitization with his societal security concept. Indeed, Jef Huysmans (2006) correctly criticizes this.

Huysmans provides a different categorization of the conceptual developments brought in by CSS. First, the meaning of security is not taken for granted anymore with the end of the Cold War, indeed it became a contested concept. The main contention here became the kind of insecurities to be included in security studies. Meanwhile, the second debate taking place is about “the consequences that inserting security language in these areas might have for their political understanding and the method of governing” (Huysmans, 2006: 26). Huysmans further argues that

[t]he dispute played off two different consequences of using security rhetoric for political purposes. On the one hand security rhetoric can be used to dramatize a policy question which may help in moving the issue up the list of policy priorities. But security rhetoric can also fundamentally reframe the understanding of the policy question, for example from a humanitarian disaster to a threat to national security, which may have important implications for the choice of policy instruments. In other words, while being moved up on the priority list, the nature of the policy issues...might have seriously changed. They are still the same developments and events but the use of security language might have critically transfigured their definition as well as the understanding of legitimate methods of governing them (2006: 26).

Huysmans correctly has immigrants and Europe in mind when talking about formulating a problem differently. Securitization, as hinted by Huysmans, exposed a new problem area; politics of security. Once, it is accepted that security is not an objective thing but rather is a product of certain social constructions there arises the necessity to unpack the power relations behind it. Indeed, calling something a security problem is not an objective and innocent act, but it has severe consequences. According to Huysmans (2000, 2006), within the last couple of decades migration has already been transformed into a security problem in Europe. After the Second World War, European countries were badly in need of labour to recreate their economies and countries. As domestic labour force was not enough to satisfy the demand, they resorted to ‘importing’ labour from other countries. Until 1970s this was just a socio-political concern. But with the economic slump of 1970s West European countries started to adopt tight

migration policies and migration started to become a concern of daily politics. In 1980s and onwards migration and asylum started to emerge and intermingle with security. The issue currently is being formulated as a pressing problem that bears serious risks and thus legitimate method to govern this is through better border control and more cooperation at the European level.

There are several explanations for this transformation as well as varying attempts to conceptualize it. Jef Huysmans goes beyond societal security discussions, and aims to unfold the security framing and the nature of the political within security studies. Highlighting the political nature of security knowledge in the sense that it requires defining the political community and what it should be like, he argues that migration is given a central place in European politics and EU identity politics by being framed as a security issue build around fear of difference rather than being an economic issue as it used to be couple of decades ago. A striking consequence of this has been revealing the disparity between the liberal and liberalizing image of the EU and its repressive immigration policy. This point is particularly important for the scope of this thesis as it questions two critical issues in this context: what does this restrictive policy towards migration signify for asylum seekers, one of the most vulnerable groups among migrants and what does this imply for the acceding countries, where the EU membership is framed as a liberalizing and democratizing leverage. These two issues will be discussed further in following chapters.

Therefore, Huysmans adopts a broader perspective in inquiring migration-security nexus within the EU and criticizes securitization and sectoral approach of the Copenhagen School. He in a way acts as the transition point from Copenhagen to Paris School. Huysmans, by adopting a Foucauldian position

seeks to deepen and specify understanding of how securitization is not just a speech act, but a much more elaborate phenomenon linking together sets of discourses of unease, bureaucratic and technical practices, and understandings of what constitutes security knowledge and expertise (Huysmans, 2006: x).

At this point the arguments of Huysmans and Paris School, which will be discussed in detail below, concur. Huysmans correctly states that it is not necessary to explicitly pronounce migration as a security problem, but it “can be rendered as a security question by being institutionally and discursively integrated in policy frameworks that emphasize policing and defence” which is clearly the case in the EU (Huysmans, 2006: 4). A striking example is the presence of asylum and immigration in the Schengen Agreements side by side with policing European borders and internal security. Therefore, in this debate what is problematized is not the meaning of security, sectors or referents of security anymore, but “...a particular rationality or logic that is implied in using security language” (Huysmans, 2006: 26). Moreover, Huysmans argues that what is problematical there is “whether the use of security knowledge inscribes this particular rationality into a policy sector thereby transfiguring both the way in which events and developments are rendered visible and the methods of dealing with them” (Huysmans, 2006: 26). Huysmans argues that

security knowledge of migration is politically relevant in three ways. First it can feed into policy making and implementation, thus contributing to a continuous administration of immigration and asylum on the basis of security routines and knowledge. Second, security knowledge can be part of a political discourse that is aimed at mobilizing popular support and criticism of political opponents by raising security implications of migration and asylum. Finally, in the case of both policy and politics security knowledge reiterates visions of the character and location of political practice and community; security knowledge inscribes concepts of the political in the way it frames events (Huysmans, 2006: 36).

Thus, Huysmans mentions two ways to explicate the developments at the conceptual level after the end of the Cold War: broadening the security, both through widening and deepening security and conceptualizing security practice as techniques of government. In the second approach, which Huysmans favours, attention is drawn to the difference between state and government. Again according to Huysmans “deepeners detach the concept of ‘state’ from the different techniques of government that has been developed in the history of Western states” (Huysmans, 2006: 36). On the other hand, he introduces, quite rightly,

Michel Foucault's concept governmentality. Differentiating state and government is quite useful especially in trying to understand developments in Europe on migration. Indeed it enables one to have a deeper understanding of both the evolution of state in Europe and different mentalities over time. Huysmans argues that Foucault's theory of power as acting upon the actions of others and its more evolved version his concept of governmentality should be introduced to security studies. Indeed, Paris School party does that. However, before introducing the arguments of Paris School, which share many of Huysmans concerns and assumptions, a more detailed discussion about Foucault and (mainstream) European security will be presented.

### **3.3 FOUCAULT: POWER, GOVERNMENTALITY AND SECURITY**

Michel Foucault has been one of the intellectuals of 20<sup>th</sup> century whose ideas stirred lively discussions in almost all corners of social sciences. Yet, IR and security studies were late comers. For a discipline that only focused on states as the subject of study and took the meaning of security and power granted for decades, introducing Foucault's ideas was a revolutionary move. However, as the international system and power relations are becoming more subtle and sophisticated it is necessary to revisit Foucault's ideas. Foucault was concerned with original ways of seeing power relations with a particular emphasis on the subject and his constitution as a subject through power relations. This work shares the concerns of Foucault and resorts to his writings in 'seeing' the emergence of an 'area of freedom, security and justice' or the domain of internal security in the EU from a different perspective and various interpretations of security.

Foucault's work was highly influenced from the political environment in the 1960s France. He was "taking issue with all established ways of thinking and behaving and ... provided a framework about questions of power which were the focus of this larger scale political interrogation" (Mills, 2003: 15). He wrote on a wide spectrum of issues, ranging from history of madness to governing

populations, territory and security. However, David Hoy correctly warns “as he [Foucault] moves from one topic to another ... his methods and purposes seem to change. So there may not be a single Foucault” (Hoy,1986: 2). One way to deal with this is identifying various periods in Foucault’s intellectual development. According to one commentator *oeuvre* of Foucault can be categorized chronologically under four phases; archaeology, genealogy, the care of the self and governmentality (Scheurich and McKenzie, 2005: 843). For the scope of this work his late writings on governmentality and his original conceptualization of power will be the main focus. Indeed, it will be argued that they have the potential to shed new light on the discussions taking place on the meaning of security in European context.

Foucault’s one of the most innovative and controversial contributions to political theory has been his conceptualization of power. As already mentioned, he was influenced from the ongoing discussions in 1960s and as a pupil of Louis Althusser, a famous neo-Marxist thinker; he was closely familiar with the Marxist literature. His work was largely concerned with the relation between social structures, institutions and the individual. He refuted the idea that power is repressive and is only concerned with oppressing and constraining. Unlike the traditional Marxist interpretation that prioritizes economy and ownership of means of production, for Foucault power was not limited to the base-structure to be deployed as a repressive tool of dominant classes. What he was concerned with was examining the functioning of power in everyday life between individuals and institutions, rather than just focusing on the ownership of means of production or the state. For him, “it is in the relationship between the individual and the institution that we find power operating most clearly and it is diffused to the functioning of the society, not only the state or the economy” (Mills, 2003: 33). This view partly reflects neo-Marxist concerns on the functioning of superstructure. However, Foucault rather than just claiming superstructure as a mirror that reflects the relationship in base-structure, or hinting the functioning of ideology, wants to go beyond the straight jacket structuralism of Marxist thinking.

Therefore, rather than representing power as something negative and repressive he argues “particularly in *The History of Sexuality*, Vol. I (1978), that even at their most constraining, oppressive measures are in fact productive, giving rise to new forms of behaviour rather than closing down or censoring certain forms of behaviour ” (Mills, 2003: 33). Similarly, the EU is devising new institutions related to borders and migrants and they cause new forms of behaviour.

Moreover, Barry Hindess argues that “much of the discussion of power in Western political thought has been animated by broader concerns with the political constitution of society and, especially, with relations between government and its citizens” (Hindess, 1996: 96). However, Foucault differentiates between power, government and domination according to the room of manoeuvre the subject has. “Foucault conceives of power in terms of a ‘structure of actions’ bearing on the actions of those who are free” (Hindess, 1996: 97). According to Foucault’s definition of power, which is diffused and non-hierarchical, it requires some sort of freedom of its subjects and exercise of it does not require the removal of liberty. Thus, power relationship is not fixed, on the contrary it is always unstable and reversible. For him the study of power “should be the study of the total structure of actions brought to bear on the actions of others in particular cases, and of the resistance and evasions encountered by those actions” (Hindess, 1996: 97). It reminds the argument of Kagan regarding the difference between the US and the EU in terms of their relations with the rest of the world which will be introduced in the following section. When the EU is depicted as resorting to ‘persuasion’ rather than military force it invokes certain freedom and when this persuasion is build on certain norms, this is another power relationship where the EU frames the discursal ground for ‘the truth’.

On the other hand, domination and government are stable and hierarchical compared to power. “Domination refers to conditions under which the subordinated have relatively little room for manoeuvre. Government lies between domination and those relationships of power which are reversible” (Hindess,

1996: 97). Foucault gives a slave as an example to domination, where almost no room for free action exists. Government, on the other hand, is an indirect action taken to affect the actions of other individuals, to regulate their own behaviour, to 'conduct their conduct'. Differing than the mainstream political theory which is concerned with the legitimacy of governmental power, Foucault explored

the means whereby the effects of such power are produced. He focuses, therefore, on the techniques of government and, especially, on its rationalities; that is, on discourses that address practical questions concerning how to conduct the conduct of the state and of the population which the state claims to rule (Hindess, 1996: 97).

On the other hand, somewhere else Foucault states that his main concern of inquiry is not power itself but to understand the ways individuals become subjects through the functioning of power. This form of power, he claims "applies itself immediately everyday life, categorizes the individual, marks him by his own individuality, attaches him to his own identity, imposes a law of truth on him that he must recognize and others have to recognize in him" (Foucault, 1994: 331). Moreover, Foucault foresaw a close relationship between knowledge and power where power creates certain knowledge and he asserts that the exercise of power perpetually creates knowledge and, this knowledge legitimizes or convince about the effects of it. He links this notion of knowledge/ power to the emergence of social sciences in the 19<sup>th</sup> century. For him, at the initial stages of industrial societies

a particular punitive apparatus was set up together with a system of separating the normal and the abnormal...The archaeology of the human sciences has to be established through studying the mechanisms of power which have invested human bodies, acts and forms of behaviour. And this investigation enables us to rediscover one of the conditions of the emergence of the human sciences: the great nineteenth century effort in discipline and normalization (Foucault in Gordon, 1980: 61).

In this context, Gordon claims that two ideas were guiding Foucault's research: productivity of power and the constitution of subjectivity through power relations.

The first one refers to the idea that power is part of ‘social productive apparatuses’ and finds echo in various programs of society, whereas the second hints the idea that power does not necessarily mean to oppress but to shape and create certain individuals. Thus, through several forms of power individuals become subjects and new subjectivities are created. This can easily be applied to the situation in EU, creating a category of European citizenship, marking him/her with difference from the rest, particularly of the illegal immigrants. The word subject might mean two different things: being subject to someone else as a result of control or being tied to one’s identity through self-knowledge or consciousness. In this context, Foucault argues that there are three types of struggles:

against forms of domination (ethnic, social and religious); against forms of exploitation that separate individuals from what they produce; or against that which ties the individual to himself and submits him to others in this way (struggles against subjection), against forms of subjectivity and submission (Foucault, 1994: 331).

He prefers to focus particularly on the third one and for him; this type of struggle tends to prevail in today’s western societies. Foucault explains this with the new political form of power developing since the 16<sup>th</sup> century. “This new political structure [...] is the state. But most of the time the state is envisioned as a kind of political power that ignores individuals, looking only at the interests of the totality or,...of a class or a group among the citizens” (Foucault, 1994: 331). He does not share the view of state as a centralized bureaucratic machine. Indeed, he refrained from pursuing a mainstream theory of the state in a way he avoided having a too big bite that cannot be chewed.

Jessop succinctly summarizes Foucault’s position in studying power and the state which is worth quoting at length here

The study of power should begin from below, in the heterogeneous and dispersed micro-physics of power, explore specific forms of its exercise in different institutional sites, and consider how, if at all, these were linked to produce broader and more persistent societal configurations. One should

study power where it is exercised over individuals rather than legitimated at the centre; explore the actual practices of subjugation rather than the intentions that guide attempts at domination; and recognize that power circulates through networks rather than being applied at particular points (Jessop, 2007).

This brings us to Foucault's writings on government and his neologism governmentality. Governmentality is the concept imagined by Foucault as a result of the criticism that his theory of power is lacking an elaborate theory of state. Foucault's early writings focus on the micro-physics of power or to put it more clearly the power relations surrounding the modern individual, shaping it and subjecting it. As already mentioned it is much helpful to bear in mind that Foucault was a pupil of neo-Marxist thinkers such as Althusser and has been struggling against various claims of Marxism, many times implicitly. This is valid for the Marxist conceptualization of state as well. Foucault rather than formulating state just as an instrument of bourgeoisie, or an autonomous unit vis-a-vis bourgeoisie with relative flexibility in terms of deciding in its actions, argues that the power relations are much more complicated. Totalizing discourses, focusing on the state as a unified and centralized entity, just equating governing with the state, miss out this complicated relations and it is necessary to inquire the relations of power in the field on the ground rather than contemplating about a capable central and unified authority.

Therefore, it is clear that Foucault is against a totalizing understanding of the state and he proposes the concept governmentality to better comprehend the functioning of power. Governmentality reflects on the wider meaning "governing that [is] not necessarily tied to the nation-state and, in some ways, have become obscured by the rise of the liberal constitutional national states and its identification of government with *the* government" (Dean, 1999:3). According to Foucault

government is any more or less calculated and rational activity, undertaken by a multiplicity of authorities and agencies, employing a variety of techniques and forms of knowledge, that seeks to shape conduct by working through our desires, aspirations, interests and beliefs, for definite

but shifting ends and with a diverse set of relatively unpredictable consequences, effects and outcomes (Dean, 1999: 11).

In his late lectures Foucault used government and power interchangeably and he “identifie[d] three forms of government [or power]: sovereignty, discipline, and governmentality” (Jessop, 2007). Medieval state which is concerned with the control over land and wealth, with some form of customary and written law, is given as the example of sovereign power. The second; discipline emerged “with the rise of the administrative state of the 15th and 16th century based on the disciplinary regulation of individual bodies in different institutional contexts” and finally the third emerged in “the late 16th [century] and came to fruition in the 19th century, when state concern was henceforth focused on controlling the mass of the population on its territory” (Jessop, 2007). Where in sovereign form of government the focus is on territoriality, in the third form the focus moves on governing the population rather than the territory only. Jessop contend that

Expanding this account, Foucault traced governmental concerns back to 16th century interest in the administration of territorial monarchies; to 16th and 17th century development of new analyses and forms of ‘statistical’ knowledge, i.e., knowledge of the state, in all its elements, dimensions, and factors of power; and, finally, to the rise of mercantilism, cameralism, and Polizeiwissenschaft. Accordingly, the governmental state arose from the governmentalization of the state rather than the statization of society and was based on continual (re)definition of state competences and the division between public and private (Jessop: 2007).

It is important to note that Foucault does not claim that these three forms of power are exclusive; on the contrary they can co-exist side by side. The most sophisticated discussion on discipline is given in his book *Discipline and Punish* (1977), where he reveals the historical evolution of disciplining and punishment measures. He also “examines the way that discipline as a form of self-regulation encouraged by institutions permeates modern societies” (Mills, 2003: 43). He argues that discipline cannot be conceptualized as an institution or an apparatus; “it is a type of power, a modality for its exercise, comprising a whole set of instruments, techniques, procedures, levels of application, targets; it is a “physics”

or an “anatomy” of power, a technology” (Foucault, 1977: 197). Moreover, discipline works at the individual level with the concern for individuals to internalize it for ‘normalizing’ them (Mills, 2003: 43).

A revealing example given by Foucault is the Panopticon which is an architectural device described by the eighteenth-century philosopher, Jeremy Bentham, whose aim was to design a prison in which it would be possible for the person in charge to see all the inmates without being seen by them and without prisoners’ accessing each other. Thus, “through a particular way of organising the spatial arrangements of prisons, schools and factories to enable maximum visibility, Foucault argues that a new form of internalised disciplinary practice occurs” (Mills, 2003: 45). As a result of this, individuals are “forced to act as if one is constantly being surveyed even when one is not. Thus, this form of spatial arrangement entails a particular form of power relations and restriction of behaviours” (Mills, 2003: 45). Foucault argues panopticon is a concrete representation of the arrangement in the modern world; the same logic is exported to several other institutions beside the prison.

Moreover, in his lectures in College de France he argued that disciplinary power was complemented by “the emergence of biopolitics [politics of life and living rather than politics of killing] and security as new forms of *ratio gouvernementale*” (Jessop, 2007). Governmental rationalities was a tool for Foucault to bring micro and macro analysis of power. The former was discussed in his books published in 1970s where he emphasizes the importance of analysing changing practices rather than the origins of institutions. “Analyzing governmental practices and their rationalities [Foucault] argued, could provide similar gains in empirical understanding, beyond a political analysis focused only on the study of state institutions [...]” (Gordon, 1999: xxv). Biopolitics is also evident in EU texts, concerned with making EU citizens safe and secure, but at the same time keeping illegal immigrants alive but far away from the EU. The discussion on illegal immigrants and human trafficking is mainly formulating on preventing tragic loss of lives on the shores of the EU.

In this context, according to Mitchell Dean governmentality

seeks to distinguish the particular mentalities, arts and regimes of government and administration that have emerged since ‘early modern’ Europe, while the term government is used as a more general term for any calculated direction of human conduct (Dean, 1999: 2).

In discussing governmentality, Foucault asserts that since 16<sup>th</sup> century there have been two sets of doctrines that defined the rationality of state power; reason of state (or *raison d'état*) and the theory of police. After giving several examples from one of the most famous formulators, Niccolo Machiavelli and his famous book *The Prince*, Foucault argues that contrary to previous conceptualization of governing for instance based on Christian philosophy, *raison d'état* is not

an art of government according to divine, natural, or human laws. It doesn't have to respect the general order of the world. It is government in accordance with the state's strength. It is government whose aim is to increase this strength with an extensive and competitive framework (Foucault, 1994: 317).

On the other hand, with the second doctrine, theory of police he meant “a governmental technology peculiar to the state – domains, techniques, targets where the state intervenes” (Foucault, 1994: 317). Putting the formation of nation state in a historical context, he argues that “the police’ is the term covering the whole new field in which centralized political and administrative power can intervene...that people survive, live, and even do better than just that: this is what the police has to ensure” (Foucault, 1994: 320). Modern art of government or state rationality is defined by him as fostering the elements constitutive of individuals’ lives in such a way that their development also fosters the strength of the state (Foucault, 1994: 322). Furthermore he argues that “power relations have been progressively governmentalized, that is to say, elaborated, rationalized, and centralized in the form of, or under the auspices of, state institutions” (Foucault, 1994: 345). To recap, what Foucault means by governmentality can be summarized as follows:

- 1- The ensemble formed by the institutions, procedures, analyses and reflections, the calculations and tactics that allow the exercise of this very specific albeit complex form of power, which has as its target population, as its principal form of knowledge political economy, and as its essential technical means apparatuses of security.
- 2- The tendency which, over a long period and throughout the West, has steadily led towards the pre-eminence over all other forms (sovereignty, discipline, etc.) of this type of power which may be termed government, resulting, on the one hand, in the formation of a whole series of specific governmental apparatuses, and on the other, in the development of a whole complex of *saviors* [knowledge].
- 3- The process, or rather the result of the process, through which the state of justice of the Middle Ages, transformed into the administrative state during the fifteenth and sixteenth centuries, gradually becomes `governmentalized` (Foucault, 1991: 103).

Foucault generally limited his discussion with the individual (or micro-level) and less with the state level and did not write much about the international level. He did not have much time to elaborate on it either. His work on *Security, Territory Population* was relatively recently published, long after his death, by compiling his lectures. Foucault did not have much time to elaborate on his concept governmentality. However, several others picked up from where he left, with a bit of delay though. In 1990s there has been an increasing interest in the notion of state, decline of welfare state, rise of the new right and neo-liberal policies. These developments in the West were coupled with the increasing discussions about globalization, the world becoming a “global village” and “the end of history”. In the meantime, alternative interpretations were also gaining ground. Ferguson and Gupta (2002: 981) correctly claim that “recent years have seen a new level of anthropological concern with the modern state”.

A comprehensive guide that successfully furthered Foucault’s arguments in other areas is the volume by Andrew Barry et al., *Foucault and Political Reason: Liberalism, Neo-liberalism, and Rationalities of Government*. Andrew Barry, following Foucault’s genealogical approach, asks how one should write the history of the present that we are living through, where politics beyond the state is

a common theme for many of the political thinkers. Post-modernity, late-modernity, high-modernity are some of the concepts employed to describe what is experienced today. They all imply a continuity of modernity though they also imply an opposition to modernity at the level of their object. Barry and others in the volume, rather than adopting an oppositional approach towards modernity, prefer to emphasize the evolution of liberalism and analyse different methods and rationality of governing linked to it. Thus, they prefer the concept 'advanced liberalism' as it captures the rationality functioning today, where reflexivity has a central place. Issue of reflexivity, planning and use of reason to achieve 'less governing' is a constant theme that comes up in Foucault's description of liberal governmentality.

In the same volume Graham Burchell underlines the distinctive approach adopted by Foucault for analysing liberalism. Foucault inquires the governmental reason behind liberalism, "that is from the point of view of the rationality of political government as an activity rather than as an institution" (Burchell, 1996: 20). Contrary to the established understanding, Foucault does not take liberalism as an ideology or a philosophy on individual freedom, but "a rationally reflected way of doing things that functions as the principle and method for the rationalization of governmental practices" (Burchell, 1996: 21). Liberalism, therefore is an art of government, where inventive ways of using political sovereignty are constantly produced and realized through several techniques, procedures, regulations and laws. According to Burchell the promotion of enterprise culture that emphasizes efficiency and effectiveness and self restraint constitutes the essential characteristic of this style of government. However, the ways "in which it is given a definite shape, both in and through governmental techniques, are extremely varied and uncertain as to their consequences and the forms of action they make possible on the art of both government and the governed" (Burchell, 1996: 25).

On the other hand, Nicholas Rose draws attention to another issue like the misleading distinction between the political and non-political forms of power. According to Rose

The strategies of regulation that have made up our modern experience of “power” are thus assembled into complexes that connect up forces and institutions deemed “political” with apparatuses that shape and manage individual and collective conduct in relation to norms and objectives but yet are constituted as “non-political”. Each complex is an assemblage of diverse components- persons, forms of knowledge, technical procedures and modes of judgement and sanction (Rose, 1996: 39).

Rose highlights the role of experts in advanced liberalism, who are connected to technologies of ruling and yet represented as ‘non-political’. This will be exemplified below through the discussion on the role of security experts in describing the security threats and needs of Europe. Indeed, this increasing role played by security experts in defining (internal) security of Europe, has not been problematized enough, at least till the works of Paris School. Rose provides a succinct definition of governmentality as well. He claims that

As an array of *technologies of government*, governmentality is to be analyzed in terms of the strategies, techniques and procedures through which different authorities seek to enact programmes of government in relation to the material and forces to hand and the resistances and oppositions anticipated or encountered. Hence, this is not a matter of the implementation of idealized schema in the real by an act of will, but of the complex assemblage of diverse forces (legal, architectural professional, administrative, financial, judgemental), techniques (notation, computation, calculation, examination, evaluation), devices (surveys and charts, systems of training, building forms) that promise to regulate decisions and actions of individuals, groups, organizations in relation to authoritative criteria. The technologies and devices that are assembled into the apparatus of a State have neither the unity nor the functionality often ascribed to them. The “power of the State” is a resultant, not a cause, an outcome of the composition and assembling of actors, flows, buildings, relations of authority into relatively durable associations mobilized, to a greater or

lesser extent, towards the achievement of particular objectives by common means (Rose, 1996: 42).

Moreover, Rose claims that governing is a matter of translation of general political programmes such as democracy, efficiency, security and the like to more concrete ways for exercising authority over individuals and activities in specific places through various networks. He further argues that “[t]he composition of such networks is the condition of possibility for “action at a distance”: it is only to the extent that such alignments of diverse forces can be established that calculated action upon conduct across space and time can occur at all” (Rose, 1996: 42). However, he also underlines that what he calls ‘advanced liberal’ strategies of government use such networks and aim to “govern at a distance” (Rose, 1996: 42). Rose’s definition is crucial in understanding the internal security field in the EU. Assemblage of diverse forces, techniques and devices are at work with the claim to make the EU an AFSJ with the aim to govern at a distance.

Rose also touches upon the lately famous sociological discussions initiated by Ulrich Beck (1992, 1994) about ‘reflexive modernity’, by which he denotes some form of post-modern condition, as a characteristic of our age, where every action faces with reflexivity which is linked to living in a ‘risk society’. For Rose this is misleading as what leads reflexivity is not a terminal moment in history but rather the nature of liberal political rationality, which requires some form of reasoning to ‘conduct the conduct’ of others by most efficient ways. Here expertise also plays an important role particularly in “promising to align the self-governing capacities of subjects with the objectives of political authorities by means of persuasion, education and seduction rather than coercion” (Rose, 1996: 50).

Joseph argues that governmentality entails an advanced liberal setting and “theorists of governmentality therefore have to be very careful to distinguish the governmentality present in advanced liberal societies from the attempts by liberal international institutions to spread these techniques elsewhere” (Joseph, 2010: 225). Indeed, this goes right to the main interest of this thesis: the EU is

experiencing an advanced liberal moment inside and likes to export this, but the outcome is not necessarily governmentality, but from time to time it is the “disciplinary power”. Joseph is critical of the possibility of applying governmentality to international domain, mainly because “for Foucault a body like the state is indispensable for governmentality”, for the case of the EU there maybe not be a state but a state-like structure.

Applying Foucault’s ideas like governmentality to European politics makes perfect sense because Foucault himself when discussing about ‘the genealogy of the state’ had European nation states in mind. He did take European case as his study. The concept governmentality is also a product of this line of thinking; indeed it is a result of Foucault’s efforts to understand the change in governing methods in Europe particularly with the rise of liberalism. Therefore, applying governmentality discussions to the EU is in a way furthering Foucault’s line of argument and carrying it to an upper level of analysis. However, applying this to the EU’s methods of governing other parts of the world is more complicated. Here an ‘advanced liberal’ entity encounters with ‘not-necessarily liberal’ entity, however the aim is to conduct its conduct by trying to export mostly liberal techniques and sometimes more brutal and direct methods of governing. Here, however, Foucault’s definition of sovereignty-discipline-governmentality trilogy is insightful. He argues these three forms of governing exist side by side, not necessarily one vindicating over others. It is exactly the case regarding the EU and its interactions with its surrounding.

Thus, to summarize, Foucault approaches liberalism as rationality or art of governing that is prevalent in modern forms of power. Liberal governmentality governs a population rather than just a territory or people or individual bodies. It measures optimal developments in populations and creates conditions for these populations to develop within the boundaries that define their optimal status. In such a context security gained a different meaning and it becomes a technique for governing. Several issues related to security serve further scrutiny for instance the role of allegedly ‘non-political’ security experts or the strategies and procedures

of security. The next section will discuss how all these discussions about governmentality, advanced liberalism and governing at a distance can play into the discussions about European security.

### **3.4 EUROPEAN SECURITY DISCUSSIONS, THE RISE OF INTERNAL SECURITY AND LIBERAL GOVERNMENTALITY**

European security has long been a major domain of TSS. In such a context, European integration, since the beginning, has been a project of security (Kirchner and Sperling, 2007a: 1). However, the meaning of and the tools to attain security has changed over time. After the Second World War stopping the German war machine was imagined as the biggest source of security for Europe. During the Cold War, the Socialist superpower was deemed as a major challenge to the physical and ontological security of the continent<sup>3</sup>. With the sudden end of the Cold War, overcoming the remnants of Berlin wall and re-uniting Europe remained as important challenge in the traditional security discourse. Consecutive waves of EU and NATO enlargements were seen as a remedy to this. However, it soon left its place to a discourse on the new security threats of a new world order; a globalizing unipolar world, transnational crime and terrorism.

After more than half a century of integration efforts in Europe, for some, what is achieved is a regional security community, where the option of war for resolving conflicts and clash of interests among states disappeared (Webber, 2007; Adler and Barnett, 1998). Although, by ‘civilizing’ nation states in Europe through curbing their enthusiasm in resorting to violence an ‘island of security’ is created, its neighbouring regions do not necessarily share the same destiny. In this context the EU gave the title ‘a secure Europe in a better world’ to its (first) Security Strategy Document issued in 2003. The Document claims that “Europe has never been so prosperous, so secure nor so free”; however, it then reminds the reader that it “still faces security threats and challenges”, indeed, “no single country is

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<sup>3</sup> Ontological security can simply be defined as the “security of the self”, that is the security of identity.

able to tackle today's complex problems on its own" (EU, 2003: 2). The document goes on with a constant reference to globalization, changing nature of security, increasing link between internal and external security and the global role the EU should assume as a security provider. Further integration and cooperation is represented as the panacea for the problems of a globalized world. To put it simply, it depicts a picture of a secure inside versus an unsafe outside similar to nation-states, yet this time in a bigger scale of the EU. The document, in this context, identifies five key threats; proliferation of weapons of mass destruction, terrorism, regional conflicts, state failures and organized crime (Kirchner, 2007: 117). Similar things were reiterated in the 2008 Security Strategy Document. The document indeed referred to illegal immigration in several sections various times.

Contrary to the Cold War division between the East and the West, in 1990s it became a cottage industry to discuss about globalisation and the North-South axis it created. For instance, Christopher Coker claims that the interaction of this two zones "has produced a new climate of insecurity in the form of" 'leaking misery (refugees); 'entrepreneurial misery' (crime) and political discontent (terrorism)" (Coker, 2002). The direction of movement of these refugees, criminals and terrorists according to Coker is from South to North, i.e. from developing countries towards prosperous nations, to which EU members belong. Moreover, September 11, 2001 attacks against the US and the following paranoid discussions about a ubiquitous terror threat had clear effects on European integration as well. Kirchner and Sperling argue that in such an atmosphere the EU "... has emerged as an important security actor,... not only in the non-traditional areas of security, but increasingly as an entity with force projection capabilities" (2007a: xi). Moreover, they employ the concept EU security governance to discuss about "the intersection of the military and non-military elements of the contemporary security agenda and the role of the European Union as a central provider of European security" (Kirchner and Sperling, 2007a: xi). Through the concept security governance they also "... link the challenges of governing Europe's security to the changing nature of the state, the evolutionary expansion of the

security agenda, and the insufficiency of the traditional forms and concepts of security cooperation” (Kirchner and Sperling, 2007: xi). To put it more clearly

EU security governance investigates how the concept of security relates to or deals with different categories of threat, explores the relationship between forms of coordination among states, international institutions, and the EU in the provision of European security and the execution of security governance, and investigates whether the EU has been effective in realising its stated security objectives and those of its member states (Kirchner and Sperling, 2007: xi).

In a similar vein, Mark Webber (2007) in his impressive volume *Inclusion, Exclusion and the Governance of European Security*, also employs the same concept in discussing European security. He argues that with the end of the Cold War there has been a shift in security thinking but it took some more time for that to find echo in policy circles. Only in 1990s and 2000s national and European bureaucracies could adopt themselves to changing security agenda. According to Webber

National governments (in Western and much of Eastern Europe, at least) and international organizations have elaborated positions which accord security a fluid and multifaceted meaning. In this sense, issues related to transnational crime, unregulated trans-border migration, weapons proliferation, environmental degradation, disease pandemics, terrorism and regional conflict management are as germane to security in the post-Cold War period as was the fixation with territorial defence and deterrence prior to the Cold War’s end (Webber, 2007: 7).

Webber is quite right in mentioning the prevalent discourse on ‘fluid and multifaceted’ meaning of security in European countries. In the post-Cold War era, threat definition evolved mainly on two tracks: new types of transnational threats created as a result of the increasing pace of globalization and the security threats caused by weak states. The idea that transnational security problems would take the place of a threat of a nuclear war between superpowers and thus internal security is now closely related to external actors establishing links with internal actors gained increasing currency. Transnational networks are one dimension of

security formulations and it will be discussed further below. Weak states that produced new type of wars; wars within states (Kaldor, 2006), which again would create security problems for the nearby islands of peace was declared as another biggest security challenge. It did not take long to link the two issues to each other. The idea, that not-so-well functioning state institutions creates the room for transnational networks whose working is facilitated by the benefits of globalization, prevailed. The crises in the Balkans both in Bosnia and later in Kosovo were two concrete challenges for the EU and also factors reinforcing the perception that Europe cannot have the luxury to be ignorant about the things happening in its periphery and the rest of the world. Thus, according to this perspective, the EU had to develop ways to relate to and organize its periphery and create a 'secure Europe in a better world'.

On the other hand, the question how to create a better world received different answers on different parts of the world, particularly on two sides of the Atlantic. Robert Kagan in his provocative work, *Paradise and Power: America and Europe in the New World Order*, argues that the US and European countries have diverging views on how to deal with these new security threats. He contends that "[o]n the all-important question of power- the efficacy of power, the morality of power, the desirability of power- American and European perspective are diverging" (Kagan, 2003: 3). Kagan asserts that Europeans think Americans have a simplified view of the world, which is divided between friends and foes, similar to Carl Schmitt's definition of politics. Thus, when faced with "real or potential adversaries, Americans generally favour policies of coercion rather than persuasion, emphasizing punitive sanctions over inducements to better behaviour, the stick over the carrot" (Kagan, 2003: 4). However, Europeans have a more sophisticated and complex understanding.

Kagan thinks that these arguments "capture an essential truth" that there is a divergence of opinion between the US and European states. However, he claims

that this is because, within the last two centuries but particularly for the last couple of decades

Americans and Europeans have traded places- and perspectives. This is partly [because]...the power equation has shifted dramatically...When the European great powers were strong, they believed in strength and martial glory. Now they see the world through the eyes of weaker powers...Europeans because of their unique historical experience of the past century culminated in the creation of the European Union- have developed a set of ideals and principles of Americans, who have not shared that experience (Kagan, 2003: 3-4).

Despite the simplicity of Kagan's caricatured world, it is impossible to deny certain truth in it in terms of diverging approaches towards the use of military force (rather than power) between the US and the EU. However, Kagan's use of the concept 'power', in tandem with the mainstream IR, is very reductionist, only denoting military capabilities. EU's insistence on 'civilian' means – which is due to change lately- does not mean that it is not using power<sup>4</sup>. On the contrary, the EU is into much more complicated power relations, which oscillates between partnership to domination. Here it is crucial to note that Europe's security efforts cannot be limited with the CFSP, i.e. the second pillar activities. On the one hand the EU is adopting a more cross-pillar approach to security on the other it is adopting rather creative methods. However, still the EU's seeming reluctance to use military means in traditional ways does not bring us to the conclusion that there is an altruistic relationship where there is no power relations embedded. Indeed, a broader issue is at stake here, the politics of security and politics of protection, which will be discussed further in the next section when introducing the Paris School.

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<sup>4</sup> EU representatives lately started to use the concept 'smart power' instead of normative or civilian power for the EU. With 'smart' use of force becoming legitimate, the EU that has the potential and willingness to use resort to military force if and when necessary. See EU Commissioner for Enlargement Olli Rehn's speech given at the Oxford University on May 1<sup>st</sup>, 2008 available at [http://www.sant.ox.ac.uk/ext/seesox/Home\\_files/Rehn.pdf](http://www.sant.ox.ac.uk/ext/seesox/Home_files/Rehn.pdf)

Going back to Kagan, he, in some ways rephrases what the European Security Strategy Document says; the EU's responsibility in having a 'better world' and the way Europeans imagine for this in Kagan's words is "the transmission of the European miracle to the rest of the world [which] has become Europe's new *mission civilisatrice*" (Kagan, 2003: 60-61). Kagan's argument about the *mission civilisatrice* of the EU with its direct reference to Europe's colonial past and the EU's increasing aspiration to play a bigger role in the governance of its periphery and global security is insightful. Parallel to what Kagan argues the European Commission in discussing the stakes of the EU in globalization maintain that the EU

[...] has an obvious stake in defining the rules of global governance in a way that reflects its interests and values. At the same time, it has a particular responsibility as one of the few players with an ability to tackle global issues: security, climate change, poverty, international migration. The EU, as the world's largest donor of development assistance and main partner for a large number of third countries, takes these responsibilities seriously, supporting human rights, and promoting effective multilateralism and sustainable development worldwide. The EU must use the available tools to the full if it is to strengthen its position in a globalised world[...] At the same time, the European Union needs to look directly at the external dimension, to consider how the impact of the collective European efforts can be maximised and how different internal and external policies can be harnessed to best effect (European Commission, 2007: 4).

The 'responsibility' of Europeans to create a better world both for European citizens and others was incurred in several other documents of the EU. The well being of citizens which is beyond the to traditional security areas, is a crucial concern. In this context, some cynical authors argue at least some of the EU member states perceive European integration as a new platform to further their colonial aspirations after losing their empires (Kircher and Sperling, 2007a). Moreover, the argument of Kagan might be linked to the discussions about the EU being a civilian or normative power, in the sense that for achieving its aims the EU resorts to civilian means and invoke certain norms, as exemplified by the above quotation. Ability to create norms, make others accept and internalize them

and then change them when desired requires power as well. Thus, the EU is willing to create the 'normal' way of governing populations through making sure of their welfare. It sets the line between normal and abnormal, as well as the tools to achieve the normal and tries to convince its surrounding to accept and internalize this.

On the other hand, another way to conceptualize the EU's interactions with its periphery and the rest of the world, or in other words, its external security efforts, is through imagining a distinction between Westphalian and post-Westphalian states. According to Ruggie (1993), the world is now divided between Westphalian and post-Westphalian states and Europe belongs to the latter group. Ruggie also correctly states that the modern state system is built on territorial rule which is achieved as a result of "the consolidation of all parcelized and personalized authority" of the middle ages into one public realm. Moreover, "[t]his consolidation entailed two fundamental spatial demarcations: between public and private realms and between internal and external realms" (Ruggie, 1993: 151). Indeed, the defining characteristic of public sphere was the monopolization of the legitimate use of force by central authorities. Ruggie as an ardent critic of Neorealism and its inability to diagnose change, argues that the world is experiencing a major change. The EU personifies this change by being the place "in which unbundling territoriality has gone further than anywhere else" (Ruggie, 1993: 171). Kirchner and Sperling concur with Ruggie and argue that

The evolution of the European state towards a post-Westphalian identity is perhaps the most fundamental change that has taken place in the modern European state system. The Westphalian state that has defined the European state system since 1648 has slowly given way to a post-Westphalian state where sovereignty is both compromised and qualified...where stated security goals have increasingly become preoccupied with matters of protecting existing levels of economic welfare as well as the social fabric from external disruptions. This change has been compounded by the failed Westphalian states along Europe's perimeter extending into Central Asia and the Middle East and the persistence of sovereign free territory attending that failure. When these two developments are considered together- the emergence of the post-

Westphalian state within Europe and the disintegration of Westphalian states along Europe's southern periphery into central Asia- the potential for increased threats to societal and state security rises with a corresponding diminution of the state's ability to defend against them (Kirchner and Sperling, 2007: 2-3).

Thus, Kirchner and Sperling also believe that the EU has evolved to a post-Westphalian state. In addition, due to this fact, Europe's security concerns also evolved as vulnerabilities and security calculus of these two groups of states, namely Westphalian and post-Westphalian, diverged to an important extent. Where the Westphalian states continue with their traditional concerns about territorial integrity and have the necessary ability to control it, "post-Westphalian states face the traditional concern with territorial integrity compounded by an inability to protect borders and a rising preoccupation with the threats posed to societies by transnational, non-state actors" (Kirchner and Sperling, 2007a: 3). Kirchner and Sperling claim that not only the security concerns have changed but also "[t]he loss of sovereignty attending post-Westphalianism has created an alternative form of statecraft (civilian power) and has produced an emergent civil order in the geopolitical space defined by the EU" (2007a:3). Combining with their security governance argument, they state that

[t]he emergence of a rule and norm based civil order, the perforated sovereignty of the state, and the expansion of the security agenda has introduced the problem of security governance without government, internally or externally...The key characteristic of the Westphalian state is its 'territoriality'...[which] is increasingly irrelevant, not only in Europe but in Eurasia and beyond. States no longer enjoy the luxury of a 'wall of defensibility' that leaves them relatively immune to external penetration (Kirchner and Sperling, 2007: 3).

This affects the changing discourse on security however the mentality is there. As a result of this logic, one issue received increasing attention and became the centre of discussions about European security: the permeability of Europe's borders and security risks incurred by unwanted intruders that is illegal immigrants and 'bogus' asylum seekers. All these concerns were reflected in one of the fastest integration areas of the EU, JHA cooperation. Parallel to the changing

environment regarding European external security, a very dynamic process was taking place regarding the internal security of Europe. For the last decade, JHA has been one of the fastest integration areas, which led to the reinterpretation of internal security at a European scale (Monar, 2008).

This has two dimensions; inside the EU increasing concern about the permeability of the borders to the threats from non-state actors and secondly, ‘normative’ intrusion of the EU to non-EU countries’ policies. However, moment of post-Westphalia is important but nothing to over exaggerate. What matters is the remaining mentality, neo-liberal methods of governing still applies, indeed, now beyond the territories of the nation-state.

In this context, although governmentality concurs with some of the findings of governance theories, such as studying government as a process rather than an institution; it differs from governance approaches in several other ways. Sending and Neumann’s comment is insightful in this regard. They claim that governmentality entails at least three issues;

First, it is aimed at investigating the specific practices and techniques of governing as an empirical phenomenon, thus seeking to replace a focus on institutions (characteristic of studies focused on sovereignty) with a focus on practices. Second, it is aimed at identifying the “mentality” or rationality that characterizes the systematic thinking and knowledge that is integral to and renders possible different modes of governing. Third, it does not replace sovereignty or discipline- each of which represents distinct forms of power (Sending and Neumann, 2006: 657).

To better clarify the difference between governance and governmentality it is necessary to differentiate their standpoints. Although they both ask ‘how’ questions, as Sending and Neumann argues, governmentality further inquires the mentality enabling various practices of governing. Governance does not aim to totally question or provide an imminent critique but rather many times celebrate and describe the change in modern state, ways of governing, how it has become fractured, decentralized or how different states and institutions found themselves

in a position to cooperate to cope with the problems of today. It does question the issues of legitimacy in view of demands for democracy. However, governmentality from the start imagines act of governing as fractured and dispersed, it differentiates state and government, it does not reduce power relations just to state or its institutions, similar to governance studies it is interested in processes. However, for sure the biggest difference is about their aims, while governmentality has the ultimate aim to reveal power relations; governance covers a sub-category of governmentality. As for European security governance theories, they inquire the change in relations of states and non state actors in governing security problems.

In the post-Cold War era the EU adopted the discourse that to sustain security inside further integration is a must, yet it is not possible to attain security inside just through friendly relations between member states. The EU should be more active in international arena, indeed should start with creating a ‘ring of friends’ around it and use more of its policies to achieve the results it desires in conducting the conduct of other states and their bureaucracies. In this context, Pastore in his article with a revealing title *Reconciling the Prince’s Two Arms: Internal-External Security Policy Coordination in the European Union*, which was written before September 11 events, claims that

in connection with the progress in European integration and the gradual dissolution of the ‘existential’ external threat represented by the Communist block, two parallel processes of a) Europeanisation and b) externalisation of what were traditionally labelled as national/internal ‘threats’ (or internal security issues) have taken place[...] Since the mid-1980s, in conjunction with the[se] two connected processes [...] a fundamentally *exclusive* and *defensive* approach to European internal security issues has instead become predominant (Pastore, 2001: 10).

September 11 events accelerated the processes observed by Pastore. The previous chapter already provided a compact historical review of these processes. To recap, the unification of the ‘European space’ started during the 1980s with the Schengen agreements and the Single European Act, which was later represented

“in dominant political discourse as a major positive achievement, which had nevertheless some negative implications”(Pastore, 2001) such as increasing opportunity for criminals and all forms of illegal activity, and not the least ‘flux of unwanted aliens’ intruding the space of security, freedom and justice. Article K of the Maastricht Treaty stated ‘common interests’ of the member states as; asylum policy, rules on crossing external borders, immigration policy, combating drug addiction and international fraud, civil judicial cooperation, customs and police cooperation. All these remained issues to be dealt within intergovernmental field. Yet, in 1997, Treaty of Amsterdam was signed, which for the first time set the goal of attaining an ‘area of freedom, security and justice’. Amsterdam moved the issues of immigration and asylum from third to first pillar, and it incorporated the Schengen *acquis* to the legal texts of the EU, which denounced the right for opt-out for the prospective members. European police cooperation incrementally intensified and was crowned with the foundation of several databases as well as institutions like the EUROPOL. In this process, as Pastore correctly argues a solid ‘internal security regime’ emerged with the following main features:

- lifting of systematic police controls on movement of people and goods at internal borders
- strengthening of international police cooperation, particularly in (internal) cross-border regions (regulation of cross-border pursuit, joint police stations, joint patrolling in cross-border areas, etc.)
- pooling of police data and information among national law enforcement bodies (Schengen Information System (SIS); Customs Information System (CIS); Europol’s ‘computerised system of collective information’)
- harmonisation and reinforcement of external border controls, conceived as a ‘system of concentric security lines’ (Pastore, 2001: 11).

As harmonization of JHA policies was consolidated within the Union, the attention was turned outside and the ways to tackle security threats before reaching the borders of the Union started to be the main concern. Parallel to this emerging border management strategy to fight transnational crime, migration and

asylum, especially during the last couple of decades, have both become highly politicized and the border between the two became more and more blurred. Lately, both issues find more space for themselves in European newspapers and election campaigns both at national and European levels. Indeed, discussions about migration are carried to the domain of security and it was started to be represented as a security problem particularly at national levels which later on found echo at the European level. Arguments about ‘bogus’ asylum seekers, pouring illegal immigrants, permeable borders of Europe became a cottage industry for European politicians to dwell on. In this context Jef Huysmans correctly claims that

[r]eading newspapers and magazines, watching television, listening to the radio, speaking to people, often leave the impression of a sense of unease in Western societies. Stories of dangers and the failing of established institutions and agencies who are supposed to deal with security questions are rising [...] Immigration and asylum is one of the phenomena in relation to which this general sense of insecurity is articulated. In political and academic debates and in everyday conversations immigrants and refugees are often portrayed as disturbing normal ways of life. Security studies picked up the theme of societal insecurity with special reference to the case of migration (Huysmans, 2006: 45).

However, there’s a crucial discourse on the welfare of both European citizens and illegal immigrants and asylum seekers part of which is guaranteed by attaining an AFSJ. For instance preventing the loss of lives as a result of human trafficking and dangerous methods to infiltrate the territories of the EU is a recurrent theme in EU documents.

This brings us to the concerns of Paris School as well as role of experts in developing security or discipline and surveillance in the EU which bears great potential to radically re-read European security and developments in this field.

### **3.5 PARIS SCHOOL AND EUROPEAN (INTERNAL) SECURITY**

Paris School, led by Didier Bigo, inquires security in Europe from a different perspective. It differs from the above discussed security governance or Copenhagen and Aberystwyth Schools first of all by locating itself within political theory and sociology rather than IR and bears the potential to provide critical insights to European security discussions. Indeed, it aims to establish a bridge between political theory, criminology and IR by reflecting on International Political Sociology (IPS) of security (Bigo, 2008). Thus, Bigo and his colleagues “introduced an agenda focusing on security professionals, the governmental rationality of security, and the political structuring effects of security technology and knowledge” (CASE Collective, 2006: 449). They adopt a constructivist stance and ask questions beyond the scope of mainstream IR, like what security means and what security does (Bigo, 2008). At the core of Paris School lie two main arguments: new forms of governmentality (of unease) is emerging in Europe and beyond, where internal and external security is merging through the enlargement of internal security matters beyond the borders and restructuring of external security. And secondly, a European internal security field is emerging where security agents are becoming transnationalized that leads to a different kind of policing, namely; by remote control and by network. This is closely linked with EU’s externalization efforts.

According to Bigo, the distinction between the internal and the external is becoming more and more blurred and the concepts sovereignty, territoriality and security are directly affected from this development. Particularly at the European level sovereignty and borders are becoming hollow. Concepts like boundaries and regions are replacing the place of borders. Thus, argues Bigo correctly that the concept of security also needs to be rethought under the light of these changes.

He starts with a commonly accepted observation: internal and external security is converging, particularly on issues of borders, orders and identity and he contends

that “internal and external security are merging and de-differentiating after a period of strong differentiation where the two worlds of policing and war had little in common” (2000: 172). Bigo, inspired from Foucault’s genealogy approach, is curious in writing the history of the present in Europe. Since the sixteenth century, police and military social spaces have been separated. However, they have been institutionally separated only since the nineteenth century. Before that and particularly during the three hundred years from sixteenth to nineteenth century, the main concern of governing and security was controlling the state territories against the attacks of other states. Although the possibility of war always existed, the idea that governments were sovereign over a certain territory was the idea agreed by all states. However, with the nineteenth century, state’s police evolved to being society’s police that’s the welfare of the state evaluated to the welfare of the society. Here Bigo explicitly follows the thread of Foucault’s governmentality discussions about the emergence of society as a concern of state or in other words moving from the notions of sovereign over territory to pastoral form of power where state takes care not only of its territory but also each and every person living within that territory. This of course has close links with productivity, efficiency and effectiveness, which is vividly observed not only in European nation-states but also in the policies of the EU.

This change of the ‘depth of security’ since the nineteenth century has created a conspicuous transformation in police affairs. The notion of collective security of the state has been annexed with a necessity to ensure everyone’s security, not as a totality but as individuals within that collectivity. Thus, ensuring the survival of the collectivity against foreign attacks is not enough for the state any more. Indeed, “the state wants to take charge of individual security and widen the notion of public order, even if it means encroaching on the private sphere” (Bigo, 2000: 171). New technologies of control and surveillance and new areas of social sciences both create tools and an increasing desire to ‘securitize’ new areas. In many cases private companies are relied upon to conduct and further surveillance programmes. “This changes the relationship between private and public and leads

to the politicization of individual security issues under the heading “insecurity feeling”” (Bigo, 2000: 171). Question of interpenetration and interlacing of security should be linked to this situation, argues Bigo. Moreover, within such a backdrop EU integration also creates a new situation in Europe where police is looking beyond the borders of the nation state. He maintains that

One needs to trace how, over the past twenty years and through a long process of change, we have moved from a notion of the police force that was highly marked by the idea of sovereignty to a vision of them, in terms of internal security, as police beyond the borders, and one needs to look at how matters of defense have been restructured since the end of bipolar relations and why military people are now surveilling the internal territory and migrants (Bigo, 2001: 103).

In this context, Didier Bigo along with Jef Huysmans was one of the first to discuss about the ‘securitization of migration’ creeping into European politics since mid 1980s, long before the Paris School acquired its current reputation. Bigo correctly states that in Europe different circles ranging from politicians, media to academics “continuously evoke the emergence of new threats (mafia, terrorism, organized crime, human trafficking, border smuggling, and often illegal immigration, as well as massive flow of refugees). They speak of threats that would transgress national identities” (Bigo, 2001: 92). He summarizes the mainlines of this new security paradigm as entanglement of migration, crime and war, where war is an issue of intrastate conflict, crime becoming less local and beyond the borders and migration depicted as a ‘fifth column’ bringing these malaise to safe areas.

However, differing from Waever and Buzan’s above discussed conceptualization of security that defends widening the area of security by creating different sectors and also juxtaposing national with societal security, Bigo argues for a new typology of security. He puts forward two ways of discussing the issue: at the ideological or discursive level or in other words through securitization process as proposed by Copenhagen School and secondly, the one he himself adopts, through

understanding our conception of the state, the governmentality of unease and focusing on different practices, both of which are applicable to the EU.

Contrary to Waever, who focuses on the discourse as comprised of successful speech acts, Bigo stresses the practice dimension of securitization. Indeed, for him, security agents are a crucial actor in this process who socially construct threats by naming what is a security issue and what is not. It does not mean necessarily that there is no objective reality corresponding to this observation of security agents, but “facts are constructed (or not) as problems by these specific actors: crime by the professionals of internal security, war by the professionals of external security, and migration by the politicians looking for some scapegoat” (Bigo, 2001: 93). In criticising studies that marry discourse and security, Bigo states that “[n]aming is important, but language is one part of reality, not all reality. A lot of American work inspired by Foucault appears to make this confusion, with a kind of neophilosophizing postmodern approach to international relations” (2001: 98). Bigo underlines the mistake of just relying on Foucault’s earlier works and failing to see the emphasis he put in praxis with this governmentality studies. Bigo also criticizes analyses of security, particularly in IR, for being very inattentive to field studies and the role of security professionals. Such an analysis is incomplete if not misleading, claims Bigo. Although he refutes the objectivity of experience, still reconstructing the process of construction that the agent goes through is possible. Giving primacy to field studies enables one to distance herself from the illusion of the primacy of discourse and opens new opportunities for studying technologies of power and resistance. This work has this concern as well. From a constructivist ontological perspective that perceives social reality as a product of inter-subjective interaction, Bigo asserts prioritizing the field “is the only way to move from a conceptualization of being and of substance to a conceptualization of belonging and of becoming” (2001: 98). Neglect of practices creates a situation where security and identity are considered as natural objects. But rather both are products of power-knowledge relationship taking place within a certain political rationality. Bigo (2001: 100) argues that his

conceptualization of “[...]diagram rationality of the Möbius ribbon of security, of the merging of internal and external security, is not the program rationality of the prevention of terrorism, drugs, crime or even the fear of a flood of immigrants coming to settle in Europe” but he contends that

It is a particular diagram of “moral panic”, of “identity securitization”, driven by technology of surveillance and the passage from a territorial state to a population state [...] where the transformation of the modalities of governmentality combines territory and ethnic, coercion and pro-activity, technological sophistication, and the old disciplines of the body, where 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 (2001: 100).

To recap, Bigo argues that the convergence of two separate domains of security is not only a product of academic reflections, but rather a product of the developments in the field, on the ground. Indeed, it is closely linked to the problematization of daily lives of people partly due to the crisis security agents are facing. He claims that particularly in Europe

Police are afraid of globalization of networks of criminals and cannot continue with the traditional discourse about sovereignty; military people are afraid of legitimacy questions, after the loss of the Soviet enemy and as they try to find new tasks after the end of bipolarity and the end of all their beliefs concerning the stability of the world. So the merging between internal and external security [...] is a question posed by the police and military forces as well as the politicians and often the journalists. Uncertainty is at the core of the fears (imagined or not) and of the practices of surveillance and coercion (Bigo, 2001: 97).

Bigo further contends that securitization is a result of a process of producing and sustaining a ‘risky and dangerous society’ in which several actors ‘exchange their fears and beliefs’. Professionals in charge of management of risk and fear are the main actors in this process in Europe. “ It is anchored in the fears of politicians about losing their symbolic control over the territorial boundaries. It is structured

by the habitus of the security professionals and their new interests not only in the foreigner but in the “immigrant” (CASE Collective, 2006: 457).

Thus, Bigo argues that with the end of the Cold War the interest areas of external and internal security agents concurred and both started to look inside for the enemies with a link to outside. This creates a situation where the internal security is being transnationalized, making notions of national and societal security irrelevant. This is also sustained through EU policies of integration and externalization. “It creates, as in a Mobius ribbon, a situation where one never knows whether one is inside or outside” (Bigo, 2000: 171). Therefore, what is important is not the issue of state versus societal security of the Copenhagen School anymore, but the relation of inside and outside as it creates more profound securitization moves beyond the securitization of identity. Furthering this logic, Bigo argues that what is needed is not reiterating things written in the academic literature

but to analyze the practices of coercion, protection, pacification, static guard, control, surveillance, information gathering and sorting, information management, grid-like security cover, calming, dissuasion, locking-up, turning back and removal from the territory that are deployed by security agents...One should analyze how each agency has its own repertoire of action, its own know-how, and its own technology (Bigo, 2001: 99-100).

This will be partly done in the following chapter when discussing EU practices in border control.

In this context, Bigo along with Rob J. Walker (2007) reflects on the necessity of furthering IPS studies. They claim that an IPS of security should ask the following questions: “Who is doing an (in)securitization move, under what conditions, towards whom, and with what consequences?” (Bigo, 2008: 125). Securitization conceptualizes security as an inter-subjective process, where an actor enunciates the discourse. This presumes both a speech act but also “a

moment of the sovereign decision to name an enemy, another term for what Carl Schmitt referred to as a ‘politics of exception’” (Bigo, 2008: 125-6).

For the Paris School, the (in)securitization process has not only to do with a successful political speech act transforming the decision making process and generating politics of exception often favouring coercive options...It has to do with more mundane bureaucratic decisions of everyday politics, with Weberian routines of rationalization, of management of numbers instead of management of persons, of use of technologies, especially the ones which permit communication and surveillance at a distance through database and speed of exchange of information (Bigo, 2008: 126).

On the other hand, these new conceptions of security, argues Bigo, are not limited with Europe but reflected at the global level and represented as requiring a solution through global security. Different platforms are being employed to discuss about and develop a response to this changing nature of security such as NATO, the EU, G8 or the Schengen. However, what is common is the idea of a growing state of insecurity that creates a situation where “security needs to be extended beyond traditional limits, at the risk of endangering liberties” (Bigo, 2001: 94). The solution proposed by European countries is not to close down the borders but rather create new “social and electronic boundaries, targeting specific peoples while a majority continue to live in freedom” (Bigo, 2001: 97). And, one main target group has been migrants and asylum seekers from developing countries.

After the Second World War, trans-national movements of people increased similar to the number of actors other than states in international arena. Bigo asserts that there are several ways to explain this situation four of which are as follows: compression of time and space as elaborated by David Harvey, as the result of globalization, secondly, undermining of traditional meanings emanating from the philosophy of the state (security, identity, order, border, stranger), thirdly, bifurcation of the world, or the retreat of the state and finally the emergence of the new form of governmentality beyond the territorial state by

trans-national bureaucracies and elites. In such a context, surveillance and punishment do change. Bigo claims

New logics are at work merging the traditional reinforcement of frontier controls and punishment of the poor, the panopticon technologies which permit proactive approaches of control at a distance, by networks of the professionals of security agencies. The boundaries between economy and polity, between inside and outside are relocated often beyond the state borders. The state is fading but disciplinarisation expands. This is paradoxical only when one confuses the state and politics. If not it is just that the state is no longer the only apparatus which frames the microphysics of power and resistance according to its own boundaries. The controls need to be differentiated and sometimes have contradictory effects. They came from multiple technologies and disciplines. Control is de-linking from national borders but identity and population controls are more important than ever, even if the privatization of the technologies of some controls create less visibility than before (Bigo, 2004:61-62).

This links to the second pillar of Paris School's argument about the emergence of an internal security field in Europe through transnationalization of security agencies and the emergence of policing by remote control and by network as new forms of policing. Didier Bigo keeps reiterating that internal security is no longer reduced to national territory (2000b: 183). Europe has been an impressive example in that context; cooperation and integration in several areas have been crowned with police and judicial cooperation. Internal security has gone through a "double (dual) widening process": It is no more limited to national territory and yet linked directly to European and international issues (Bigo, 2001: 105). Here, Bigo builds on Foucault's arguments about power, panopticon, the role of police and surveillance in modern societies. And he tries to remedy Foucault's failure in thinking within the limits of the state and failing to understand the role of modern technologies. He argues that "social practices of surveillance and control sort out, filter and serialize who needs to be controlled and who is free from that control, because he is 'normalized'. It is more a ban than a panopticon" (Bigo, 2008). This overlaps with liberalism of the EU on the one hand where goods and people should circulate quickly but also should be categorised and filtered. Bigo also criticizes Foucault for focusing too much on punishment and thus failing to see

the transnationalization of networks of surveillance, which was accelerated as a result of the Europeanization of security. Indeed, what needs more attention, the EU is exporting these policies, concerns and practices to govern this policy field to other parts of the world, starting with its neighbours, results of which are not elaborated enough.

Bigo and several others mention about the rising concern about the ‘threats within’ and how security agents deal with them. However, as important are the methods to stop the ‘newcomers’. Indeed, the EU has become the main forum for such a policy as Schengen Accords became a part of the *acquis*. This also creates new forms of conducting the conduct of others in the periphery of the EU as well as subjects within. Indeed, the EU is quite creative in this field. In this context, it is possible to claim that two processes are simultaneously at work in the EU; liberalizing the internal area by adopting liberal governmentality inside and to new members, but also adopting disciplinarization techniques mostly towards outsiders. The aim of the EU to create a homogenous ‘internal security’ area, or as called by the Amsterdam Treaty an area of freedom, security and justice is a perfect example in this regard. However, the practices of member states and the Union tilt towards an exclusive interpretation of the three key concepts; freedom, security and justice. In this context, Tsoukala correctly argues that “immigration problem in Europe has been reduced to a point where the only possibility to handle it is frontier controls and the role of police at the borders” and he confirms Bigo by claiming that “today’s domestic political situation reveals a picture where foreigners are depicted as security problems” (Tsoukala, 2005). Therefore, it is possible to claim particularly for migrants the logic of policing being shifted from a logic of discipline to one of risk where “inequalities and patters of domination and exclusion are persistent and changing” (Bigo and Guild, 2005:1).

More recent writings of Bigo and the rest of Paris School as part of IN:EX project, reveal the complicated technological tools in security field and how they pose the risk to make daily lives of ordinary people less secure. One crucial example is the

increasing reliance on surveillance tools, specifically databases and profiling through data mining, that can take place only by collecting as much personal data possible about people (Fuster et al., 2010). The next chapter will discuss more specifically about these practices of the EU.

To sum up, this chapter provided and debated the conceptual tools to problematize the way Europe governs populations by constructing an area of freedom, security and justice, by making certain issues a problem, a threat and then a “risk”, then “conducting the conduct” of its periphery, the irregular migrants, their states, their transit routes, creating new subjectivities and new types of relations. More traditional formulations of European security are still centred on the security of the state and conventional ways of thinking. Although, the point that the EU brings some sort of novelty to understand security, it is not explored enough. To better comprehend what is the originality of the EU, there is a need to critically inquire certain concepts such as power, liberalism and security and this is where Foucault and Paris should enter into the picture. There is an increasing discussion on security governance in Europe. However, government is about ways or in Foucault’s terms “arts of governing” and there exist different arts of government in European history. Observing what is governed leads to defining the rationality of government. According to Foucault three distinct rationalities of government are: *raison d’état*, police state and the advent of liberalism. This chapter argued that the discourse on European security, threats to and ways to attain it has been transformed due to several reasons. The end of the Cold War had a clear impact by both creating the room at the theoretical level to include new issues in security studies and at the level of security practitioners. The next chapter will discuss the border management strategy of the EU, which is one of the main policing activities within the Union. It will reveal how the EU has been establishing, by differentiating its relations with different regions and by imagining new tools and techniques, a ban-opticon like structure in Bigo’s terms.

## CHAPTER IV

### GOVERNING THE BORDERS OF EUROPE AT A DISTANCE: EU BORDER MANAGEMENT POLICY AND MIGRATION

*The likely development towards a more or less integrated, totalised registration and surveillance system in Europe implies a development towards a vast “panoptical machine” which may be used for registration and surveillance of individuals as well as whole categories of people, and which may well become one of the most repressive political instruments of modernity.*

*Statewatch Analysis*<sup>5</sup>

#### 4.1 INTRO

The previous chapter introduced conceptual tools to inquire the change in formulations of security in general and European security in particular. Border control and migration are being represented in Europe as major challenges of a globalized world. When questioning positivist assumptions of security, link between discourse and security was highlighted as a new venue for security studies. Indeed, it was argued parallel to governmentality and Paris School that discourse should not be equated just with speech acts but practices also should be paid enough attention. Indeed, Foucaultian governmentality perspective underlines the ways in which security becomes a technology of governing and

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<sup>5</sup> Statewatch Analysis (2005), “SIS II: Fait Accompli? Construction of EU’s Big Brother Database Underway”, available at [www.statewatch.org](http://www.statewatch.org)

how governing is now more than governing territories alone encompassing also governing populations. This chapter, in view of these conceptual discussions aims to scrutinize EU practices on border control and migration, which have become a major subject of security in Europe.

The discourse of the EU in this field is mainly build on: inevitability of increased border control, necessity of cooperation with third countries and formulating immigration as risk rather than threat to security of Europe. The discourse formulates a ‘normalized’ secure inside versus a dangerous and risky outside where the borders lies at the intersection. This chapter rather than the discourse is interested in the practices of the Union. However, before discussing the practices, in tandem with a governmentality approach it is argued that the mentality, shaping practices in this field needs to be scrutinized, which is, managing risk in advanced liberalism. Then practices will be scrutinized, which will be categorized under two headings: externalization and surveillance. These externalization efforts have been conceptualized differently by various authors; externalization, extra-territorialization, external governance are some examples. However, the common point for all is the desire to ‘conduct the conduct’ of third parties. Therefore, the EU has been developing a border management model intertwined with its common asylum and immigration policy with an accentuating emphasis on external dimension of all that aims the containment, confinement and dissuasion of unwanted and “risky” elements by incorporating bureaucrats, private companies and citizens of third countries to its border management system. As for externalization, governing people outside the Union will be the focus. However, firstly writing the history of present is needed in terms of externalization. Then the methods of governing, such as the European Enlargement which has been a major milestone in formulating all these policies, will follow. In examining the second major strategy, surveillance, newly developed tools that rely on sophisticated information technologies, risk calculations such as the databases of Schengen Information System (SIS), EURODAC, Visa Information System (VIS), Passenger Name Record system (PNR) will be discussed.

## **4.2 THE MENTALITY DEFINING THE PRACTICES OF THE EU: MIGRANTS AS RISK AND MIGRATION POLICY AS RISK MANAGEMENT**

When in 1989 Francis Fukuyama declared ‘the end of history’ as the end point of mankind’s ideological evolution what he predicted, albeit in the long run, was liberal democracy of the West or the United States becoming prevalent all round the globe. However, since his celebration of the end of history, the world has seen several conflicts, different forms of oppression and increasing numbers of migrants and refugees. On the other hand, especially with 11 September 2001 attacks against the US and the following London and Madrid bombings, the notion of ‘liberal democracy’ seem to have regressed even in ‘the most liberal countries’ of West, into a rather restrictive and in some cases unlawful form of government, where the balance between liberty and security is disturbed at the expense of the former (Guild, 2010). One of the most threatened groups from this development, without doubt, is migrants including asylum-seekers with their legal in-between situation. The establishment of detention centres for asylum seekers, extended detention periods in many European countries, extra-judicial rendition of migrants, for instance via unregistered CIA flights over Europe, increasing surveillance all raise concern quite rightly particularly among human rights activists.

Although, the meaning of migration and the function of borders changed over time, restrictive migration policies and strict border controls are nothing new for European countries. Partly as a result of the economic slump experienced in 1970s, European countries tried to restrict numbers of migrants and asylum seekers that manage to reach their territories. As Ingrid Boccardi (2002: xviii) correctly states “[m]ost Member States, in an attempt to stem the asylum flows, repeatedly tightened their national refugee admission policies and progressively looked to the EU for a comprehensive regional solution.” The same was valid for illegal migrants and controlling borders. In this context, as already discussed in

Chapter 2, the EU since 1980s has started to be one of the main fora to coordinate these efforts. Therefore, it is a legitimate question to ask how does this new actor; the EU, responds to its changing competence and international environment and what is the main rationality behind the practices that characterize its systematic thinking?

As already mentioned, with the Treaty of Amsterdam and the following Tampere European Council the legal nature as well as practice of border management, migration and asylum policies have been transformed to a situation that allows bigger room for Community activism. Amsterdam put forward the goal of establishing the EU as an “Area of Freedom, Security and Justice” (AFSJ) which, since then, has become a key concern of the EU literature as well as EU institutions. Indeed, the Treaty brought a five-year term for the Community within which it should take the necessary steps to achieve this goal. This five-year period was also an expression of the desire to establish this policy field and take necessary precautions before the next round of enlargement that was planned to take place in 2004 as a result of which eastern borders of the Union would be guarded by new members who have been going through enormous transformation in terms of their ideologies and methods of governing.

In this context, each and every day new ways of surveillance, inspection, legislation, regulation are being produced by European institutions both to transform to be members and to establish and govern the AFSJ, which has a direct effect on the lives of European citizens as well as third country nationals. At this juncture, migration became a central issue where several discourses intersect. And thus new structures to deal with this ‘problem’ are being built.

The strategy of the EU in the field of migration, oscillated between finding a comprehensive solution and adopting a border security and containment obsessed strategy. However, differing from European nation states, the EU texts generally refrained from directly linking the issue of migration to security at least until 11

September 2001. Particularly the European Commission rather frames the issue as a technical issue to be dealt with better planning, more integration and effective management techniques of different sort. It draws a clear line between legal and illegal migration. Legal migration is encouraged by defining it as a tool to increase the welfare of the Union. It is argued in a liberal economic setting labour movements should be handled according to forces of demand and supply and needs of the market rather than interventions of states. Despite this, the Union is willing to intervene more into planning of skilled migration. However, member states are reluctant to give up their sovereignty in this area and prefer to keep their freedom.

On the other hand, many times the Commission links the issue of controlling illegal immigration to the welfare and expectations of European citizens from the Union. For instance, the most recent Stockholm Programme reiterates decisiveness of the Union to establish an AFSJ and states that this will be “[...] responding to a central concern of the peoples of the States brought together in the Union” (European Council, 2010). Indeed, the border management strategy increasingly focuses on limiting immigration and “bogus” asylum seekers by standardizing control measures around Europe and its periphery, particularly by relying on high-tech surveillance methods and by externalization or ‘extra-territorialization’ of measures of control and policing.

Building on the discussions of the previous chapter, this chapter concurs with Paris School and argues that the EU has been constructing, to borrow Didier Bigo’s term, a “ban-opticon” like structure. As opposed to a “pan-opticon”, which allows surveillance of all with little effort, in a ban-opticon certain groups are selected as target groups, as potential criminals, as risky groups and are subjected to increased surveillance, whereas movement for the rest is facilitated. In Europe the group to be the subject of surveillance are decided to be illegal immigrants and asylum seekers.

In return for this, by increasingly relying on high technological developments, new methods of surveillance are being developed. Besides European agencies, border control and immigration authorities of Europe's peripheries are also being incorporated into this system. Therefore, the issue has two dimensions, internal construction of the ban-opticon, particularly around the notion of border management, by relying on new technological developments and secondly its externalization through different techniques of governance which results in governing at a distance. Or to put it in another way; increased surveillance of 'risky' groups and pre-emptive approach towards eliminating risk at its source, before reaching the borders of Europe.

In such a context, Paris School correctly argues that the main mentality behind the practices of the EU in this area is framing migration and border control issues as risk management rather than purely a security issue (Bigo, 2008, Aradou and Van Munster, 2008). It can be claimed that, the EU is generally uneasy in dealing with mainstream security issues about which nation states are extremely sensitive. Also the Union has the claim to be a sui-generis entity, different from nation-states as a project of peace and welfare. Thus, when looked inside the institutions of power, they do not use the discourse of threat, but insecurity and migration, risk and management<sup>6</sup>. Indeed, the institutions of the EU, particularly the European Commission depict the issue as a pure technical problem to be tackled by keeping the unwanted out and at the same time easing the transfer of *bona fide* travellers and goods. However, defining migration, asylum and borders as mere technical issues to be decided and excelled at by experts is not an innocent act. It empowers experts to a degree that itself might cause different sort of risks the first and foremost of which is narrowing down the room for politics.

This argument has close links to the thesis of Ferruccio Pastore (2001), that was best summarized with the catching title of his article; *Reconciling the Prince's Two Arms* that reveals the increasing link between internal and external security in

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<sup>6</sup> I am grateful to Prof. Micheal Williams for his help in formulating this argument.

Europe. Or as alternatively conceptualized by Didier Bigo, the transnationalization of (internal) security agents is becoming a major link between internal and external security domains (Bigo, 2000, 2002, 2008). Both Pastore and Bigo underline the change in mainstream thinking and practice about security particularly with the increasing speed of globalization. However, the crucial concept that deserves further scrutiny here is the notion of “risk”. The simplest definition of risk would be the exposure to the chances of injury or loss and for the EU it refers to calculating these chances and managing them, which requires expert knowledge and statistical methods. Gammeltoft-Hansen correctly underlines the fact that behind the evolution of this “ban-opticon” structure lies the notion of managing risk in an advanced liberal system (Gammeltoft-Hansen, 2006) as opposed to a simplistic understanding of threat.

At this juncture, without doubt Ulrich Beck’s seminal work *Risk Society: Towards a New Modernity* (1992) opens a new horizon in interpreting modernity and developments linked to globalization. Albeit late compared to other areas, security studies also got its share from these discussions. Risk has been a crucial concept of Criminology for some time especially in policing the society just as the case with Sociology. Here, however, discussions on globalization carried the discussions on risks that the new world order poses, into security studies. As the scope of security and policing expanded, new risks have been identified and the order of hierarchy among them has shifted.

For Beck there exist three stage periodization of social change; pre-modernity, simple modernity, and finally what is currently being experienced, reflexive modernity. Here, Beck pretty much equates modernity with industrial society and the new reflexive modernity with the risk society. Industrial society is build on the principle of distribution of ‘goods’ whereas it becomes the distribution of ‘bads’ or dangers in a risk society. However, risk society also overruns industrial society which means in a risk society the elements of an industrial society co-exist side by side. The ‘bads’ in such a society are the product of industry as well as science

that creates risks (Lash and Wynne, 1992: 3). Ulrich Beck in his following words summarizes himself the gist of his thesis in the best way, which is worth quoting at length here:

The productive forces have lost their innocence in the reflexivity of modernization processes. The gain in power from techno-economic 'progress' is being increasingly overshadowed by the production of risks. In an early stage, these can be legitimated as 'latent side effects'. As they become globalized, and subject to public criticism and scientific investigation, they come, so to speak, out of the closet and achieve a central importance in social and political debates. This 'logic' of risk production and distribution is developed in comparison to the 'logic' of the distribution of wealth (which has so far determined social-theoretical thinking). At the center lie the risks and consequences of modernization, which are revealed as irreversible threats to the life of plants, animals, and human beings. Unlike the factory-related or occupational hazards of the nineteenth and the first half of the twentieth century's, these can no longer be limited to certain localities or groups, but rather exhibit a tendency to globalization which spans production and reproduction as much as national borders, and in this sense brings into being supra-national and non-class-specific global hazards with a new type of social and political dynamism (Beck, 1992: 12-13).

Ulrich Beck in his early writings focuses more on the issue of environmental degradation and summarizes his account with the motto 'poverty is hierarchical but smog is democratic' (1992: 36). In his more recent writings, however, he moves on to several other issues (Beck, 2007). Here, the issue of "risk" obviously plays the central role and deserves further attention. For Beck, "[t]he concept of risk is directly bound to the concept of reflexive modernization. Risk may be defined as a systematic way of dealing with hazards and insecurities induced and introduced by modernization itself" (Beck, 1992: 21). On the other hand, according to Lash and Wynne,

[r]isk has become an intellectual and political web across which thread many strands of discourse relating to the slow crisis of modernity and industrial society[...] Risks are defined as the probabilities of physical harm due to given technological or other processes. Hence technical experts are given pole position to define agendas and impose bounding premises *a priori* on risk discourses (Lash and Wynne, 1992: 3-4).

Lash and Wynne correctly underline the role played by technical experts in the risk society of Beck. In a similar vein, Tulloch and Lupton also state that

[r]isk knowledge have increasingly become the domain of ‘experts’ such as scientists because of their magnitude and, often, their invisibility to the senses...Whereas earlier risks were part of a system of stratification and poverty which was highly visible, today’s hazards are invisibly everywhere in the everyday. In this situation, the power that people’s everyday experiential knowledge usually gives them is denied. The hazards are determinable only by others. Lay people are forced to become reliant upon expert knowledges [sic] to inform and warn them about risks (Tulloch and Lupton, 2003: 3).

In this context, besides the definition of risk itself what matters is the way it is being communicated in a social setting. Indeed, Ericson and Haggerty draw attention to its social dimension and state that “[r]isk refers to external danger, such as a natural disaster, technological catastrophe, or threatening behaviour by human beings” and they add that “[t]he system for communicating risk- its rules, formats, and technologies- is a part of the social meaning of risk” (Ericson and Haggerty, 1997: 3-4). In the same vein Pat O’Malley describes risk ‘as a technology of government’.

That is, risks are not regarded as intrinsically real, but as a particular way in which problems are viewed or “imagined” and dealt with. What is specific to risk, in their view, is that risk is a statistical and probabilistic technique, whereby large numbers of events are sorted into a distribution, and the distribution in turn is used as a means of making probabilistic predictions (O’Malley, 2008: 57).

This understanding of risk, risk society, reflexive modernity all play into EU’s migration and border management imaginary, policies as well as its policing practices. When these extensive efforts are reviewed one might get the false image that the EU is hosting extreme numbers of migrants or asylum seekers. However, in reality, the EU countries “host only a small and declining fraction of the world’s 13 million refugees, but there are few more politicised issues than

asylum in Europe” (OXFAM, 2005: ii). In this context, Thomas Gammeltoft-Hansen correctly states that

[i]n a Europe built on the principle of free movement and intimately dependent on the possibilities of global mobility, the surge in efforts to control migration is at first glance puzzling. On the new eastern borders of the EU, more than one billion Euros has been injected into Schengen data terminals, X-ray scanners, surveillance vehicles, electronic watchtowers with thermal cameras and underground detection cables with motion sensors (Gammeltoft-Hansen, 2006:1).

However, he interprets this puzzling situation by revealing the change in “the way Europeans wants to live” in terms of structuring border controls and coping with the risks it might pose. According to Gammeltoft-Hansen

From the historical imperative to reinforce the Single Market, border control today has not merely moved beyond the individual Member States, it has more profoundly been reorganised and reinvented. As a continuum of surveillance and control measures to filter migration and prevent risk groups from entering, it stretches both inside and outside the EU borders[...]When control is no longer tied exclusively to the physical frontiers but takes place both within and outside EU territory, borders become ‘virtual’ or ‘blurred’. Instead, the migrant meets a ubiquitous frontier, as the risk filter is constantly being deployed to weed out risky elements (Gammeltoft-Hansen, 2006: 30).

Thus, in such a system of border management, migrants are categorized, catalogued and traced. Several institutional categories are being formed such as tourist, asylum seeker, illegal immigrant. “Furthermore, upon entry migrants are thoroughly examined because of the specific risk potential they inherit in terms of transnational crime, overstay of visas and terrorism” (Bohlin, 2008: 8). Indeed, a sophisticated model for managing the relations between the police and other bodies concerned with management of risk in borders are being established. Profiling through predictive data mining is being employed by them to guess the risk potentials of people before their actions. This have been used by the private sector to guess consumer behaviours of different groups, and now the technique is being presented as a very beneficial tool for predicting the security risks in Europe

by finding recurrent patterns. “When applied in the context of security, profiling is generally used to select a group of people, objects, or actions considered as ‘deserving further attention’ or ‘special treatment’” (Fuster et al., 2010: 1). This affects potentially anyone performing selected actions such as travelling from one country to other or transferring money between countries. This also has the potential to threaten a major human right, the right to privacy and the right to the protection of personal data. As a result of these techniques, daily actions of ordinary people are becoming tools to profile them and make them subjects of generalized surveillance even without noticing. And the most controversial point here is the issue of transparency; in constructing profiles, defining risky elements. Fuster et al correctly differentiate profiling from other techniques by claiming that it

implies a shift from searching and measuring towards detecting: while more classical statistical approaches aim at validating or invalidating proposed correlations believed to be pertinent answers to existing questions, with profiling there are no preliminary questions. The Correlations as such become the ‘pertinent’ information, triggering questions and suppositions. The result is that the tracing of behaviour becomes the source of an almost unlimited network of possible profiling practices generating knowledge with an impact upon individuals (Fuster et al., 2010: 2-3).

However, this is being introduced as the necessity to attain security in a risky environment and “no satisfactory debate is taking place on how the use of profiling in this particular area can encroach upon the fundamental rights and freedoms of individuals” (Fuster et al., 2010: 1).

To sum up, the two crucial components of governmentality, as already mentioned, are the specific mentality and knowledge that define the practice both at the micro and macro levels. Practices of governing both inside and outside, takes the form of creating new legislation and institutions within the EU. The core mentality is linked to the notion of risk and the aims is fortifying external borders through compensatory measures that benefit increasingly from high technological methods

of profiling and generalized surveillance, keeping unwanted out and returning them at the easiest and cost effective manner, yet facilitating the movement of goods and desired ones as much as possible. In this context managing risks before reaching the territories of Europe plays a central role, which accentuated the emphasis on external dimension of migration and border control policy fields. The following section will first narrate the evolution of externalization measures, which aims to eliminate risks before reaching the borders of Europe, by either taking pre-emptive action or remote control. Then it will dwell on two specific policy tools of externalization: enlargement and neighbourhood policy.

### **4.3 PRACTICES OF THE EU: EXTERNALIZATION**

#### **4.3.1 HISTORICAL EVOLUTION OF EXTERNALIZATION OF MIGRATION POLICY AND BORDER CONTROL**

The EU faces a major dilemma: “how may the ambition of nation-states to control the entry and movement of people be reconciled with liberal standards promoting free markets, open borders and humanitarian values?” (Gammeltoft-Hansen, 2006: 1). It is no secret that European nation-states have been adopting restrictive migration policies particularly since mid-1970s onwards. Interestingly, this period also overlaps with the accentuated efforts for regional integration which culminated in establishing an internal border-free Europe. The Union, now, shares the sovereignty of nation-states on issues of border control, asylum and illegal migration policies. On the one hand, it strives for facilitating freedom of movement inside the Union as well as easing the rules and reducing the red-tape for entering the Union from neighbouring countries especially to obviate erecting new ‘walls’ in Europe (Rehn, 2006). Yet, on the other hand, it aims to provide security through filtering out unwanted goods and aliens, to be free from the security risks they might pose. To put it bluntly, the EU wants to liberalize but also strictly regulate its borders. While doing this it evokes the welfare of European citizens and keeps referring to meeting their expectations. Parallel to the

increasing emphasis on the link between borders, migration and security, the EU has been adopting new tools and techniques to govern this policy field. One of them is externalization of border control and the other is surveillance. These mainly focus on eradicating the risk with the help of surveillance tools such as databases and profiling people travelling from third countries, preventing illegal migrants from reaching the territories of Europe through pre-emptive measures and dealing them outside of the Union as much as possible. Therefore, as Stefano Bertozzini frames it “[f]inding the correct tools to achieve the objectives of the EU and its external policy while ensuring good border management lie at the heart of the challenges” (2008:2).

In this context, the Treaty of Amsterdam, that partly aimed to prepare the Union for the next round of CEEC enlargement, was a major turning point. Because it brought the issues of immigration, asylum and border control that lie at the intersection of freedom, security and justice, under the formal competence of the European Community (EC), by making it Title IV of the EC Treaty. When the CEEC become members of the Union they would be in charge of eastern external borders of the Union. Amsterdam clarified the issue by bringing Schengen legislation to the formal competence of the EU and thus set the standards for border control practices. The competence of the EC covered issues related to ensuring the free movement of persons in accordance with EC Treaty and adopting the directly related compensatory measures on external border controls, including issues on visa, asylum and immigration. Ana Bacerro argues that

EU position on migration so far can be defined as restrictive since the measures and instruments applied in this field transmit a political approach based on a double axiom: the strengthening of the external borders, the implementation of an effective dissuasion policy of expulsion (Bacerro, 2004: 10).

Bacerro is quite right in underlining these two axioms. Strengthening external border controls has been represented as the only cure to compensate for security deficits that would arise as a result of the emergence of a borderless Europe and

prospective rounds of enlargement. Thus, the EU has been channelizing its efforts in harmonizing the procedures of external border controls in Schengen members. This included common standards, procedures and rules, plus sophisticated technological tools of surveillance. On the other hand, migration has also been increasingly linked with preventing entry to and expulsion of irregular migrants from the EU. Moreover, expulsion of illegal migrants have been associated with incorporating countries of origin, transit, third countries and neighbouring countries by employing different methods, into the system EU establishes.

In this context, policies of border control, illegal immigration and asylum have been moving fast and have become increasingly intertwined, particularly after 1999 when Amsterdam Treaty came into force by communitarizing these policy areas, and when Tampere European Council took decisions on how to realize the goals of the Treaty. Schengen Agreements already brought a mentality change particularly through the notion of compensatory measures to avoid negative effects of borderless Europe. Indeed, Amsterdam Treaty made Schengen a formal part of the *acquis* and also the competences on border control, immigration and asylum were incorporated into the Treaty as a separate chapter, under Title IV. Articles 62 and 63 constitute the legal basis for Community activism in this area. Cooperation in these fields have revealed relatively imbalanced development though; while internal issues, or in other words legal migration, faced with resentment from member states, the external dimension of migration and asylum policies prevailed over the rest and developed into a main field of cooperation. With a particular emphasis on the international dimension of the migration issue, cooperation pays special emphasis on engaging with countries of origin and transit in controlling migration flows. What follows is a growing stress on extraterritorial control (Lavenex, 2007: 130).

The external dimension of migration and asylum policies were officially embraced in Tampere. The Presidency Conclusions stated that concerns on migration and asylum should be incorporated into other policies and activities of

the Union, including external relations. “Since then, ‘partnership with countries of origin’ and stronger external action’ figure prominently in the work-plan of the JHA Council” (Lavenex, 2007: 133).

Having said that, external dimension of migration existed in some documents of the European Commission and the Parliament long before Tampere. For instance, in 1987, the European Parliament prepared a Resolution where it defended the necessity to improve cooperation, both economic and political, with countries of origin. However, this resolution has an obviously different approach compared to the restrictive measures of following years. Again in a Communication published as early as 1991 by the European Commission, a call for a realistic and comprehensive approach to the migration issue particularly by defending action on three fronts was stressed: relieving migration pressure at the source, controlling migration flows at the Community’s external frontiers and improving integration policies for legal immigrants. Particularly the first one was linked to the issue of integrating migration to the external affairs of the Union. In 1992, the conclusions of the Edinburgh European Council included a Declaration on Principles of Governing External Aspects of Migration Policy. A similar line of argument existed in a Communication published in 1994. Again, the notion of adopting a comprehensive approach to migration existed with the legitimizing argument that migratory pressure was persistent and that the root cause should be eradicated. In this context, Lavenex correctly claims that

[...] these early initiatives reflected quite well the idea of a comprehensive approach in which ‘all forms of migration (legal, illegal, refugee and asylum) would be taken into account, and the full course from motives to more through to ultimate ‘solutions’ (integration, return or for some refugees, resettlement) would be connected (Lavenex, 2007: 133).

Also, in the second half of 1990s, Troika programmes, prepared by the EU Presidencies included programmes for external relations in the JHA field, which included external dimension of migration policy as well (Sterkx, 2004). Until Tampere Summit several efforts were spent on migration policy, however two of

them in 1998, deserve particular attention especially for shaping the following policies and moving from a comprehensive to a containment approach: the Austrian Strategy Paper and the High Level Working Group Plans, consecutively.

Austria received the Presidency of the Union in the second half of 1998, and in its first days presented a strategy paper on migration that became notorious for proposing to replace or amend basic international asylum law and take harsh action, including military action against refugee and migrant producing countries. Although, in the end the paper was not adopted as the policy of the Union, still it influenced the track immigration policy evolved on. Baldaccini summarizes the essential elements of the plan as follows:

- To link in a common approach all migration-related decisions within EU institutions, ie justice and home affairs, foreign policy, economic relations with third countries, association agreements, and structural dialogue with countries applying for EU membership;
- To use political leverage in agreements with migrants' countries of origin and transit, eg to make aid dependent on visa questions, greater ease of border crossing on guarantees of readmission, trade on effective measures to reduce push factors;
- To create concentric circles of co-operating states in place of 'fortress Europe' and engage these circles of friends around Europe in policing the EU borders from the outside in return for trade and aid concessions depending on the political muscle that could be used by the EU (Baldaccini, 2007: 279).

Although the paper was not meant to be discussed in public, it was leaked to media and received huge criticism from human right circles. However, several proposals of the paper have become recurrent themes in migration and asylum discussions in Europe and shaped following policy initiatives. Indeed, the main points summarized by Baldaccini above became main components of the existing policy of the EU.

On the other hand, the Dutch delegation to the Council tabled a proposal for setting up a task force on migration and asylum to develop a cross pillar and comprehensive approach designed for some countries of origin that impose an imminent threat. The idea was endorsed by the JHA Council held in 3-4 December 1998 and a High Level Working Group on Asylum and Migration (HLWG) was set up. It prepared reports on Afghanistan, Albania and its neighbouring regions, Morocco, Somalia and Sri Lanka and also re-read a report on Iraq. HLWG prepared its reports and submitted at the Tampere summit, which asked the group to present an implementation report to be submitted at the Nice Summit in December 2000. However, reports received a lot of criticism from NGOs such as the Amnesty International as well as the European Parliament. Criticism mainly focused on two issues: the lack of partnership spirit in the reports that reveals itself with the lack of dialogue with countries of origin and secondly, the overwhelming emphasis on security-related issues. Particularly, signing readmission agreements were presented as a crucial remedy for controlling migration. Sterkx (2004: 8) correctly claims that “[...] the focus was on containment instead of tackling root causes.”

Although these criticisms gave its fruits in the report submitted to the Nice European Council by stressing the importance of adopting a long term comprehensive approach and the necessity of genuine partnership, the hindrance before these was represented as the lack of financial resources devoted by the Union for this purpose. In 2001, a new budget line (B7-667) was created to support cooperation with third countries in the area of migration .

The B7-667 covered only 10 million EURO for preparatory actions in 2001, 12.5 million in 2002, and approximately 20 million in 2003. Recently, a multiannual financial framework has been put into operation for the years 2004-2008: a Regulation establishing a programme for financial and technical aid to third countries in the area of migration and asylum has been approved by the Council and the European Parliament. A total amount of 250 million Euro is made available for the support of third countries' efforts to improve the management of migratory flows in all their dimensions, and in particular to stimulate third countries' readiness to

conclude readmission agreements, and to assist them in coping with the consequences of such agreements (Sterkx, 2004: 8).

This multiannual programme was called AENEAS and became one of the key instruments in this field (EC Regulation No 491/2004). However, it was used, more than finding long term solutions for push factors, in building the capacity of recipient countries in policing their borders more effectively and putting pressure on them in signing readmission agreements.

In this context, in the year 2000 the Commission tabled two separate Communications, respectively called; *Communication On a Community Immigration Policy* (European Commission, 2000a) and *Towards a Common Asylum Procedure and a Uniform Status, Valid Throughout the Union, for Persons Granted Asylum* (European Commission, 2000b). Shortly before the Laeken European Council held on 14-15 December 2001, Commission also tabled another *Communication on a Common Policy on Illegal Immigration* (European Commission, 2001). The Communication “[...] identified six areas for possible actions preventing and fighting illegal immigration” which are; visa policy, infrastructure for information exchange, co-operation and co-ordination, border management, police co-operation, aliens law and criminal law, return and readmission policy (European Commission, 2001).

Abolishing internal border controls created a situation where the weakest point of an external border in one of the member states became a weak spot for all the Union. The Laeken European Council, in view of the upcoming round of enlargement, was one of the first platform that initiated a discussion on this and promoted “integrated border management” (IBM) which occupied the agenda of the Union ever since. During this process there have been continuous exchanges between the Council and the Commission in terms of preparing legislation on migration. For instance, with the Laeken Summit Conclusions referring to the link between better management of the Union’s external border controls and fighting against terrorism, illegal immigration and trafficking in human beings, the

Commission was asked by the Council to work on possible cooperation methods, mechanisms and different services. Communication from the Commission to the Council and the European Parliament titled *Towards Integrated Management of the External Borders of the Member States of the European Union* was a reply to this call. Commission states that “[...] coherent, effective common management of the external borders of the Member States of the Union will boost security and the citizen’s sense of belonging to a shared area and destiny” (European Commission, 2002:3).

The Communication was built on five main categories of suggestions; common body of legislation, common mechanism for coordination and cooperation, common integrated risk analysis, staff and inter-operational equipment, from financial burden sharing to the European Corps of Border Guards. “Integrated border management is a term with a rather short history and a wide spectrum of meanings” says Peter Hobbing (2005:1) correctly. For instance, for the Eastern and Central European countries, border management was initially closely linked to setting-up of a functioning market economy. The EU funds, TACIS and PHARE directed towards this region focused on efficient border structures. “The objective, then still traditionally phrased as “improving the effectiveness of border controls”, soon switched to the more business and trade-oriented language of “effective border management” which evolved finally to “integrated border management strategy (IBM)” (Hobbing, 2005: 2-3). IBM became a concept to refer to tackling complicated but interrelated issues of trade, security, transport, criminal smuggling, making different authorities to work together as well as increasing their capacity by way of having necessary equipment and database infrastructure. Hobbing argues that there were several reasons for the EU to adopt an IBM approach with the new millennium, some of which are;

- 1) the forthcoming enlargement as such exercised considerable pressure on the Union to ensure a high degree of border security, all the more so as the shifting of control responsibilities to inexperienced new members was considered an elevated risk, while public opinion seemed in any event alarmed by the increase of organised crime ‘imported’ from the east; 2) the

September 2001 events increased the pressure to cope with terrorist risks in a coordinated way; and 3) the permanent need to reconfirm the mutual trust among those member states that had already abolished internal border controls- with their possible return to those controls overhanging the Union like a Damocles sword (Hobbling, 2005: 12-13).

In short, late 1990s and early 2000s had seen a heightened discussion on migration and border control which was directly linked to the prospective enlargement of the Union. According to Ben Hayes and Tony Bunyan “a central tenet of EU immigration policy through the 1990s was the creation of a “buffer zone” in the accession countries of central and eastern Europe” (2003: 71). This buffer zone was enabled through several means as already mentioned in the Communication (European Commission, 2001) as possible areas for action such as; visa requirements, bilateral readmission agreements between EU and candidate countries, EC funding and technical assistance to immigration and border police authorities, declarations that central and eastern European countries are safe for the return or protection of refugees, and the condition that candidate countries must implement the EU Justice and Home Affairs acquis in full before they can be considered for full accession. All these enabled the EU to export its border management regime as well as the “...responsibility for countless asylum-seekers and refugees to the candidate states” (Hayes and Bunyan, 2003: 72).

Therefore, enlargement acted as a major component of pre-emptive action. While on the one hand disciplining new comers through several capacity building projects and legislative changes, a new buffer zone was created for the ‘core’ Europe. However, once the central and eastern European states are integrated to this regime, the EU has gone one step further to incorporate countries of origin and transit of migrants and refugees heading for Europe. Bunyan and Hayes again correctly claim that

The policies were an attempt to pass responsibility for prevention of immigration to the countries of origin of refugees and migrants and the countries through which they pass by tying trade and aid to the prevention and return of “refugee flows” (Bunyan and Hayes, 2003: 72).

Another major milestone in migration management of the EU has been, without doubt, the Hague Programme that was adopted as the second multi-annual programme. Following the European Council meeting on 4-5 November 2004, European Commission agreed on an action plan on 10 May 2005 that listed the concrete steps to be taken in the coming five years to achieve the objectives in this field. The Hague Programme divides the agenda into three; strengthening freedom, security and justice. It places 'immigration' (regular and irregular) under the heading of 'Strengthening Freedom'. There is the stress for developing a comprehensive approach that pays attention to all stages of migration, ranging from root causes to admission, integration and return policies. The ten policy priorities mentioned in the Hague Programme are:

- 1- Fundamental rights and citizenship- creating fully- fledged policies.
- 2- The fight against terrorism-working towards a global response
- 3- A common asylum area- establishing an effective harmonised procedure in accordance with the Union's values and humanitarian tradition
- 4- Migration management- defining a balanced approach
- 5- Integration- maximising the positive impact of migration on our society and economy.
- 6- Internal borders, external borders and visas- developing an integrated management of external borders for a safer Union.
- 7- Privacy and security in sharing information- striking the right balance.
- 8- Organized crime- developing a strategic concept.
- 9- Civil and criminal justice- guaranteeing an effective European area of justice for all.
- 10- Freedom, security and justice- sharing responsibility and solidarity (Balzacq and Carrera, 2006: 6).

It is explicitly stated in the programme that migration, asylum and borders are among the priorities for the following five years. However, the Hague Programme when compared with Tampere, is generally criticised for being more security focused. Despite several issues like migration or borders are discussed under the freedom section, the measures proposed to be taken like biometrics or visa policy are more relevant to security measures than measures to increase freedom. Again the stress on the external dimension of migration is very overt. For instance, the Commission in the Hague Programme states that

A common immigration policy cannot confine itself to admission and return policies: successful management of migrations (sic) flows must become an integral element and comprise a serious investment in relation with third countries, both of origin and of transit, notably through assistance and cooperation, in the mutual interest of third-countries and of the Union (European Commission, 2005b).

Therefore, the emphasis on the external dimension of migration and border control has not diminished but on the contrary increased in time. Following the Hague Action Plan, the European Council of 16-17 June 2005 declared the necessity to adopt a Strategy for the Union on the External Dimension of the Area Freedom, Security and Justice (European Council, 2005). Following this call, European Commission was set to identify main external challenges and the objectives of the Union's external actions with a Communication, titled *A Strategy on the External Dimension of the Area of Freedom, Security and Justice* (European Commission, 2005a). The Commission classifies issues to be tackled under five headings one of which is migration, asylum and border management. Under this title it claims that improving the capacity of third countries in migration management and refugee protection as well as supporting their capacity for border management; enhancing document security; preventing illegal immigration; re-linking development with migration and ensuring the return of illegal immigrants are important. Moreover, according to this Communication, there are several policy instruments available for the use of the EU, some of which are: bilateral agreements, enlargement and pre-accession processes, European Neighbourhood Policy action plans, regional cooperation, individual arrangements, operational cooperation, institution building and twinning, development policy, external aid programmes, international organizations and monitoring (European Commission, 2005a). Some of these instruments will be further discussed below.

More recently and following the fifth round of enlargement that took place on 1 May 2004, the EU Heads of State and Government held an informal meeting at the Hampton Court on 27 October 2005 and called for a comprehensive approach

to tackle the issue of migration. Following the call of the Council, within a month, the Commission prepared a plan for a comprehensive programme of action, titled *Priority actions for responding to the challenges of migration: First follow-up to Hampton Court* (European Commission, 2005c). With this Communication some concrete measures to set up a comprehensive programme was proposed, which allowed the Council to focus specifically on Mediterranean and Africa regions (European Commission, 2006) for which Union's policies are becoming more and more controversial (Bilgin and Bilgic, 2011). According to the Commission, global approach to migration specifically refers again to the external dimension of the EU migration policy and “[i]t is based on genuine partnership with third countries, is fully integrated into the EU's other external policies, and addresses all migration and asylum issues in a comprehensive and balanced manner” (European Commission, 2008:1). The Commission clarifies its efforts with the following statement

Adopted in 2005, it illustrates the ambition of the European Union to establish an inter-sectoral framework to manage migration in a coherent way through political dialogue and close practical cooperation with third countries. The Global Approach has already been the subject of three specific Commission Communications over the past three years, setting out short-term measures in relation to particular geographical areas and countries (European Commission, 2008: 1).

In the meantime there have been several initiatives of the Council and Commission. However, most recently, the EU has published its third multi-annual programme, the Stockholm Programme that was drafted by the Swedish Presidency and adopted by the European Council at the end of the year 2009. The Communication of the European Commission (European Commission, 2009) already received huge criticism for increasing the surveillance tools and changing the balance between liberty and security at the expense of the former (Guild, Groenendijk and Carrera, 2009).

Therefore, externalization of border control and migration long existed in EU documents; however, the emphasis on security logic has altered in time. As

already mentioned build on the mentality of managing risk, the EU developed two main strategies externalization and surveillance. The next section will discuss the specific policy tools of externalization.

#### **4.3.2 TOOLS OF EXTERNALIZATION OF MIGRATION POLICY AND BORDER CONTROL**

Extra-territorialisation of control worked through several means such as visa policy, readmission agreements, carrier liability, safe third country rule which were implemented through bilateral agreements, enlargement or intermediary instruments like European Neighbourhood Policy. In a way the Union differentiated between various regions and developed tailor made relations with each by benefitting from different tools. Sandra Lavenex correctly argues that “[i]n contrast to a preventive comprehensive approach addressing the factors which lead people to leave their country of origin, European policies focused on the repression of undesired inflows through externalization” (Lavenex, 2007: 134). This externalization worked with the implicit rationale of “remote control” where the aim has been to shift the locus of control further outside of the Union and its common territory. Schengen Agreements granted the Schengen group several instruments which became a part of the EU *acquis* as a result of the Amsterdam Treaty. The early coordination of visa policies in the Schengen group, the introduction of carrier liability, in the second half of the 1990s, placing national liaison officers from home ministries of member countries at airports in countries of origin in order to check validity of documents were among these instruments.

On the other hand, “second form of early externalisation was the mobilisation of third countries in the control of migration flows to Europe, mainly through the adoption of the ‘safe third country’ rule” (Lavenex, 2007: 134). Regarding remote controlling asylum seekers the Schengen Agreements and Dublin Convention led to the emergence of such a rule. However, it was later on adopted by the Union as

well through the Council Regulation no.343/2003 of 18 February 2003 which replaced the 1990 Dublin Convention. Article 3(3) of the Regulation clarified the “safe third country rule”. According to this, member states were given the right to deny examination of an asylum claim and send back the applicant to a third country where s/he would have had the chance to apply for asylum so long as this state is party to international refugee treaties. As a result of this rule, member countries tried to deliver the responsibility of asylum seekers to the countries in their neighbourhood.

Another crucial tool of this system has been the “readmission agreements” which would enable European countries to send back these asylum seekers or migrants to a “safe third country”. Readmission agreements are also extremely controversial particularly because of putting the whole asylum system and security of asylum seekers in danger. However, the Union has taken a decision in 2001 to incorporate the clause for signing readmission agreements to its all external relations. For instance, the EU when giving development aid to African states, or when signing an action plan with a neighbouring country a specific clause for readmitting illegal migrants would be inserted.

Although, all these initial remote control techniques were developed within the intergovernmental Schengen cooperation, they soon became a tool of the Union. At this conjunction, enlargement of the Union has been a defining moment in managing the surrounding of the Union and formulating specific tools and mechanisms to this aim. Especially the last rounds of enlargement deserves particular attention, as major policy tools of externalization related to border management and migration were structured through this process. There are several policy instruments at EU’s disposal to influence the actions of other countries. Indeed, they represent a significant strength enabling the EU to tailor its external cooperation according to the situation of each country. The Commission lists in one of its Communications; bilateral agreements, enlargement and pre-accession processes, European Neighbourhood Policy Action Plans, regional cooperation,

individual arrangements, operational cooperation, institution building and twinning, development policy, external aid programmes, international organization and monitoring as examples to these policy instruments (European Commission, 2005a: 7). Among all these “instruments” pre-accession process leading to enlargement particularly of 2004 enlargement deserves particular attention as it laid down the initial work to formulate the EU policy on externalization of internal security in a coherent and comprehensive way by incorporating all the readily existing tools of Schengen into Union actions.

#### **4.3.2.1 EU ENLARGEMENT AS EXTERNALIZATION OF BORDER CONTROL AND MIGRATION**

Enlargement has a strange nature as the Union initially externalizes border management and migration policy to candidate countries, which in the end become members and ‘internalize’ all these issues back to the Union. However, by the time they became members they have to ‘upgrade’ the methods and tools of governing borders and related policies of the Union. They have to be disciplined where they internalize the ‘normal’ procedures and rules of conduct of the Union.

Enlargement has occupied the agenda since the day the Community was founded in 1950s. Indeed, the Union has experienced several rounds of enlargement. The first round was the accession of the UK, Denmark and Ireland in 1973. It was followed by the southern enlargement denoting the accession of Greece in 1981, Spain and Portugal in 1986, then followed Austria, Finland and Sweden in 1995. Finally, the eastern enlargement of the Union took place in 2004 with the accession of ten new members as well as Romania and Bulgaria in 2007. Every round of enlargement was preceded by an internal restructuring of the Union. Or, as commonly put deepening and widening went hand in hand. Therefore, Neil Nugent (2003:1) argues “[e]nlargement is...best viewed not as series of discrete events but rather as an ongoing process.”

Compared to previous rounds, enlargement process became more sophisticated during the latest eastern enlargement. It was partly due to the large number of countries to accede and the relative disparity of development between existing members and future ones. Thus, more specific criteria for membership were stated during 1990s when the Central and East European Countries (CEEC) were having accession talks. This process also overlapped with furthering the integration in JHA, which led to a model to be imitated in the neighbourhood as well.

Enlargement is particularly of interest to this work as it denotes a situation where two free entities interact and lead to transformation, which is product of power relations in a Foucaultian way. The dynamics of power is worth inquiring . Although Foucault was interested more in individual level, it can well be applied to one level up, the level of state. This transformation indeed has direct effects on lives of individuals, as it introduces liberal methods of governing populations beyond territories to new member countries.

During these several rounds of enlargement until the last round the “classical method of enlargement” was at work says Preston (1997). According to this a community integration method that relies on the inevitability of spillover effect, was in action. This assumes that integrating separate sectors cannot take place in isolation from the rest. Integration process in the end would have consequences and inevitably lead to the ‘spillover effect’ on other sectors.

On the other hand, the latest round of enlargement was deemed different when compared to previous rounds due to several reasons. The classical method of enlargement made sure the outcome of the accession process as membership and provided a very strong incentive for the candidate to harmonize its legislation. Yet, for the latest round initially the Union was quite reluctant to admit these new members. The disintegration of the USSR and the end of the Cold War created a power vacuum in the East and Central Europe in early 1990s. However, it also created anxiety on part of the West European countries for several reasons; the

resurrecting German question, possible flows of migrants, inability of Eastern European governments to control criminal groups from operating in the rest of Europe were to name a few.

Thus, particularly after the tragic events that took place in the Balkans, membership to the EU and NATO appeared as life-saving strategies for the smooth transformation of this region. However, CEECs did not become the priority for the EU immediately. More urgent question was the German unification. Therefore, rather than developing a problem solving approach, initially the EU looked towards its already existing instruments and offered association agreements to CEECs just like other third countries.

The EU typically concludes association agreements in exchange for commitments to political, economic, trade, or human rights reform in a country. In return, the country may be offered tariff-free access to some or all EU markets (industrial goods, agricultural products, etc), and financial or technical assistance. Yet, these agreements did not include much as regards JHA issues, rather they focused on more mainstream liberal economic interactions.

In 1991, the EC devised a standard form for the arrangements for CEECS and called them Europe Agreements. Europe Agreements were negotiated between 1991 and 1996, and then entered progressively into force between 1994 and 1997 with all of the current Central European members including Bulgaria and Romania. All Europe Agreements included a hope giving statement in the preamble that the country may look forward to accession as the ultimate target. With some slight differences depending on the country, all agreements aimed for a substantial liberalization in trade products.

A crucial turning point in this process was undoubtedly the Copenhagen European Council held in June 1993 where the CEECs were provided with a membership perspective and a concrete to do list on the way to full membership.

A year before the Copenhagen Summit, in June 1992 a report prepared by the European Commission stated that:

Enlargement is a challenge which the Community cannot refuse. The other countries of Europe are looking to us for guarantees of stability, peace and prosperity and for the opportunity to play their part with us in the integration of Europe. For the new democracies, Europe remains a powerful idea, signifying fundamental values and aspirations, which their peoples kept alive during the long years of oppression. To consolidate their newfound liberty, and stabilize their development, is not only in their interest, but ours (European Commission, 1992: 5).

Commission again evokes the liberal and liberalising discourse regarding CEECs, which partly is valid. Before Copenhagen the only criteria for membership was being “European” as stated in the Article 237 of the EEC Treaty. In June 1993, the European Council meeting in Copenhagen stated that “[...] the associated countries in central and eastern Europe that so desire shall become member of the European Union”. Although this opened the way for having new members, the same meeting clarified the conditions that need to be satisfied on the way to membership. Then the famous Copenhagen Criteria for membership was formulated. They were designed so that there would be a convergence between existing and new member states in their political and economic systems. These criteria can be summarized under three main headings. Political criteria covering the stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities. Second, is the existence of a functioning market economy as well as the capacity to cope with competitive pressures and market forces within the Union. Finally, the ability to take on the obligations of membership including adherence to the aims of political, economic and monetary union, or in other words adopting the *acquis communautaire* of the Union.

Enlargement has been seen as a main instrument for this peaceful transformation particularly in the post-Cold War era for CEECs. Major tool of this instrument has been the principle of conditionality and the golden carrot of membership. Karen

Smith boldly argues that “[b]y enlarging, the EU would incorporate more states, thus spreading its model of ensuring peace and security via economic and political integration (projecting political stability)” (Smith, 2003: 107). In addition to Smith’s argument the EU has been exporting its ‘liberal’ mentality as well as its own ways of governing. During the Essen European Council on December 1994 agreement was reached on a pre-accession strategy which, strengthened by new instruments of accession partnerships and the reinforcement of pre-accession aid, was put in force for CEECs. All of these can be regarded as the EU’s efforts to neutralise new security risks from the CEECs in order to strengthen peace, stability and democracy in these countries. Enlargement and its pre-accession strategy were chosen as a means for the stabilisation of the Eastern periphery. Although the EU was given credit for the successful transformation of these countries, initially it received criticism as well for not being specific enough about the future of accession.

Where the EC was initially reluctant to deal with JHA-issues especially in early 1990s, the Schengen countries embarked on a closer co-operation with the CEECs. Particularly Poland, had the ‘luck’ of neighbouring Germany. Following German pressure the Schengen countries already in mid-1991 lifted the visa-requirement for Polish citizens to ‘Schengen-land’. The path of cooperation for Poland has constituted a road map for other countries. In return for a visa free travel, Poles signed a Readmission Agreement, a quite controversial instrument, with Schengen countries. With this, Polish authorities committed themselves to re-admit any person into Poland who crosses the border between Poland and Germany without the necessary paperwork no matter if they are a citizen of Poland or not. This led Poland ‘defend’ itself by copying many of the Schengen-rules and tighten its own visa policy. The re-admission agreement that was also signed with the remaining CEEC made these countries function as a “cordon sanitaire” for the Schengen territory (Lavenex and Wichmann, 2009). Poland was an example for the rest of CEECs. These countries just copied the Schengen rules on borders, asylum and visa and on the other hand accepted the ‘intruders’ back

who made their way to the Schengenland via their territories. As already discussed, Schengen was an inter-governmental cooperation platform where security professionals had a huge influence in defining the agenda and practices. This way CEECs were included in this and became part of the remote control system.

Initial hesitation on part of the EC about the German unification and German question was resolved with the Maastricht Treaty and only after that the Community turned its attention to Central and Eastern Europe. This also overlaps with the process of creating the pillar structure of the Union as a result of which JHA became an official concerns of the Union. After the Edinburgh Summit in December 1992 a German-led coalition abandoned the policy of association and started to advocate for Central and East European accession to the EU. Moreover, after the Essen Summit in 1994, JHA was included in the so-called structural dialogue, opening the door for several meetings between EU ministers of justice and home affairs and their Central and East European counterparts. However, the true content of this have not been clarified till 1997 when the Amsterdam Treaty was signed and the Schengen agreements were incorporated to the EU *acquis* (Lavenex, 2002: 703).

Therefore, the internal security dimension and internationalization of security problems became more visible as the EU declared its commitment for accepting CEECs. The forum for this change was the 1996-Inter-Governmental Conference. At the Cannes Summit in 1995, the member states had already decided to put the JHA-pillar on the IGC-agenda. In the run-up to the IGC, the Reflection Group which was preparing the IGC, made a direct link between JHA-reform and the forthcoming enlargement. The details of the accession process were discussed in detail in the report prepared by the Reflection Group. The report quite well summarizes the process with the following words: “[t]he prospect of forthcoming enlargement implies a qualitative change in the need to guarantee the internal security of citizens of the Union more effectively” (Reflection Group, 1995).

In 1997 the Commission prepared the Agenda 2000 report which enabled the political leadership to undertake the decision to commence negotiations. At its meeting in Luxembourg on 12-13 December 1997, the European Council decided to begin negotiations with Cyprus, the Czech Republic, Estonia, Hungary, Poland and Slovenia, setting March 30, 1998 as the date for the formal launching of negotiations. Another thing the European Council did was to ask the Commission to prepare annual progress reports on the negotiations and to continue its analytical examination of progress in the other applicants. These progress reports prepared for each country became crucial instruments of negotiation and transformation in the countries. They can be claimed to be the main instrument of European surveillance and discipline in these countries, where each and every step they take as well as their failures are recorded and published at the end of each year. In the meantime, the European Council also called for annual meetings called the European Conference. This was planned to be composed of the Heads of State and Government of the member states and of all the applicants negotiating for accession, as well as Turkey, to address “questions of general concern”. Particularly, they included foreign policy, justice cooperation, economic matters and regional policy.

Clearly enlargement created dramatic changes in the internal security area that culminated in Amsterdam that led member states to upgrade the development of ‘an area of freedom, justice and security’ into one of the EU’s chief objectives – an objective to be fulfilled within a five year period. They also decided to transform the JHA-area into an actual EU-policy. Important parts of the JHA-pillar (visa, asylum, immigration and other policies) were thus ‘communitarised’.

In that sense it is possible to argue that the EU prepared for enlargement by increasing the membership threshold. By making it more difficult for the CEECs to join, making them standardise several practices regarding borders, visas, asylum and migration policies. Enlargement, therefore constituted a dilemma for the EU, since it was depicted both as a necessity as well as a threat for the security

of the Union. Lavenex, who has written extensively on these issues, perfectly reveals the nature of this dilemma

[...E]nlargement is seen as the only policy-instrument, which can ‘diffuse’ the potential internal security problems in the East. Since enlargement implies taking in countries which have not yet established strong, efficient judicial systems and border control, it does however also in itself constitute a security threat for the EU. Thus, a protection strategy was adopted which was to increase the threshold for membership and standardizing the conducts of CEECs before they become members to the Union. The most concrete example is the incorporation of the Schengen acquis (Lavenex, 2002: 703).

Incorporating Schengen legislation and communitarization in Amsterdam resulted in an increase in the volume of legislation on asylum, illegal migration and border control. Asylum deserves particular attention as it lies at the intersection of human security and liberal values of the Union also as it reveals the interplay of concerns on security and rights of the state and individual more bluntly.

In this context, Lavenex correctly argues in the year 2002 that “notwithstanding this extensive definition, the explicit acquis covers as yet only very limited aspects of refugee policy, mainly related to the question of access to (full) asylum procedures in the member states” (Lavenex, 2002:703). The true content and the fundamental aspects of international asylum law are left to the discretion of member states. Here, Lavenex identify three problematic issues. The first and probably the most important at least for the scope of this work is that “the focus of the acquis is on measures which were developed as instruments to limit generous refugee regimes in the member states” (Lavenex, 2002: 703). This might be quite surprising news for many but the newly developed EU legislation particularly on asylum did not necessarily have an effect that increases the liberal space for refugees.

Examples are the principle that only one member state shall be responsible for examining an asylum claim (Schengen and Dublin Conventions of 1990), the simplification of asylum procedures for certain categories of

persons (the London Resolution of 1992 on ‘manifestly unfounded’ asylum claims and the notion of ‘safe countries of origin’), the exclusion of certain categories of persons from access to asylum procedures (safe third country rule), and the tightening of visa requirements and facilitated expulsions and returns, e.g. through the conclusion of readmission agreements with countries of transit and origin. The CEEC countries, however, do not share the liberal post-World War II tradition and first need to establish the basic legal, administrative and judicial infrastructure necessary for examining asylum claims before thinking about the need of eventual restrictions (Lavenex, 2002: 703).

The second challenge particularly related to asylum legislation emanated from the exhaustive list of legislation to be adopted (Article 63 of Amsterdam Treaty). This constituted a ‘moving target’ for the CEECs, that required constant amendment of legislation. Yet on the other hand harmonization of asylum legislation defined a minimum standard for the existing members which sometimes encouraged states to bring their standards below than what they themselves adopted (Lavenex, 2002: 703). Germany and France are examples to this (Özgür and Özer, 2011: 21).

Lavenex mentions a much deeper and complex issue as the third challenge, which is the existing crisis in the international refugee regime and the uncertainty on who to protect. This is related to a discussion that started since 1980s but became more visible particularly with the end of the Cold War as Western refugee policies were deprived of one of their most important normative backbones, the anti-Communist ideology (Loescher, 1993). Simultaneously a process since 1970s was at work which is the closure of economic migration channels and the continuity of violent conflicts and economic deprivation in many parts of the world. Single Market played on the perceptions of fear of asylum shopping and concerns on internal security became the main concern that shake the main inspiration of asylum law which is human rights. A very revealing report of Oxfam claims that “ninety percent of asylum seekers are forced to enter the EU irregularly, because there are almost no channels through which they can obtain visas and travel documentation to enter regularly” (Oxfam, 2005: iii). “This leaves the CEE countries with the ambitious requirement to implement asylum regulations which

have lost much of their political support in the traditional asylum countries of the West” (Lavenex, 2002: 704).

As already stated tactics of externalization were institutionalized during enlargement process. Or to put it more correctly, the tactics imagined within Schengen regime, have been incorporated by the Union to ‘protect’ internal security. In this context, it might be helpful imagining several circles at the centre of which lies the EU where an outside circle would be CEECs as the buffer zone at least till enlargement. Then another and bigger circle is the neighbours of CEECs to the east and neighbours to the south. Within such a structure, migrants and asylum seekers can be imagined as trying to penetrate these circles to reach the core, however no matter their claims is legitimate or not, being tried to be kept at the furthest circle possible. Or in other words, the outer circles assumed the role of ‘*cordon sanitaire*’. Indeed, the policies to control, fight, repel these migrants and asylum seekers are decided at Brussels and implemented by agents around the outer circle.

In such a ban-opticon structure, one crucial element of externalization of internal security and the fight against illegal immigration has been the return policy of the Union a crucial component of which is signing readmission agreements. A European Commission Communication published in 2001 claims that the return policy of the community should be based on three elements: common principles, common standards and common measures. It further argues that

[...] readmission clauses should be included in all future Community association and co-operation agreements. Targeted technical assistance, if needed supported by Community funding, could be offered where appropriate. The EU should also use its political weight to encourage third countries, which shows a certain reluctance to fulfil their readmission obligations (European Commission, 2001).

As clear the Union was determined to use its leverage and power against acceding countries and other countries to become part of its return and readmission policy

within the terms it defined. The crucial step in the mobilization of third countries for the emerging system of EU-wide cooperation was the conclusion of readmission agreements. The first such agreement was concluded in 1991 between the Schengen states and Poland. This contractual engagement of non-member states into immigration control was officially embraced in the Declaration of the Edinburgh European Council which recommended that member states “work for bilateral or multilateral agreements with countries of origin or transit to ensure that illegal immigrants can be returned to their home countries” (European Council, 1992: 23). To include asylum seekers within the scope of readmission, another instrument was imagined, which is the concept of ‘safe third country’. This concept originated with the London Resolution signed in 1992 which was preceded by Dublin Convention of June 1990 that specified the country responsible for processing an asylum claim lodged in one of the member states. Originally, the determination of a third country as safe and the concomitant conclusion of readmission agreements focused on countries neighbouring the Union. Later on it was extended well beyond Europe (Lavenex, 2007: 134). A most recent and controversial case was with China, which does not necessarily have the best records in human rights. Similarly another controversial cooperation and readmission agreement is the one planned to be signed with Libya.

Regarding the signing of readmission agreements, as it became clear that they brought negative results and challenges for countries of origin and transit, things did not go as smooth as the Community initially hoped for. Frequently calls for speeding up readmission agreements have been voiced by member states since then. A carrot designed to convince other parties has been the visa facilitation agreements to be signed in return for a readmission agreement. This has been achieved in the case of Russia, Ukraine as well as CEECs. This way, once the Union guarantees that any person entering the Union can be returned to another country, takes certain steps to facilitate movement of people, such as signing visa facilitation agreements.

Thus, Baldaccini and Toner correctly argue that in Tampere and in Amsterdam

[e]mphasis was placed on the effective control of the Union's future borders, on the promotion, with the assistance of countries of origin and transit, of voluntary return and on the conclusion of readmission agreements with relevant third countries (Baldaccini and Toner, 2007: 4).

Another important goal Amsterdam Treaty put forward in view of the prospective enlargement was establishing a Common European Asylum System. Having regard to Title IV of the TEC, in particular Article 63(1) and (2), the Council was given the task to adopt, before 1 May 2004, that is before the CEECs' membership, several measures. These were the criteria and mechanisms for determining which Member State is responsible for considering an application for asylum submitted in one of the Member States (Art. 63(1)(a)); minimum standards on the reception of asylum seekers in Member States (Art. 63(1)(b)); minimum standards with respect to the qualification of nationals of third countries as refugees (Art.63(1)(c)); minimum standards on procedures in member states for granting or withdrawing refugee status (Art.63(1)(d)); minimum standards for giving temporary protection to displaced persons from third countries who cannot return to their country of origin and for persons who otherwise need international protection (Art.63(2)(a)); and on promoting a balance of effort between Member States in receiving and bearing the consequences of receiving refugees and displaced persons (Art.63(2)(b)).

Indeed, Tampere Presidency Conclusion for the short term specified the targets of having a workable determination of the State responsible for the examination of an asylum application, common standards for a fair and efficient asylum procedure, common minimum conditions of reception for asylum seekers and the approximation of rules on the recognition and content of the refugee status. In this context, Battjes summarizes the set up of the CEAS as follows

The system establishes four statuses, four categories of protection on asylum related grounds: refugee status, subsidiary protection status, temporary protection status and applicant (or asylum seeker) status. [...]

The rules on these four statuses concern five topics. First and foremost, rules for granting and withdrawing the status, addressing the issue who is eligible for a certain status and who is not. Secondly, rules on procedures, i.e. procedures for granting or withdrawing the protection statuses. Thirdly, rules defining the content of the protection- the right to stay and conditions for residence. Fourthly, rules on the allocation, determining which Member State is responsible for the concerned third country nationals. Finally, rules on family unity (Battjes, 2005: 34).

Therefore at the heart of this system lies couple of main legislations enacted; Dublin II Regulation, the Reception Directive, the Qualifications Directive, the Asylum Procedures Directive and the Temporary Protection Directive. These legislations relate to each other as follows: any third country national, so long as physically present in any Member Country, can ask for refugee protection status. Under international law, it is obligatory for the concerned Member State to inquire this request. Dublin Regulation defines which member state should process this request. Procedures Directive defines the related procedures such as appeal to a negative decision. Till their demand for asylum is processed and a decision is reached the person would enjoy the status of asylum seeker and their rights are defined in the Reception Conditions Directive, such as issues related to residence. If the decision would be positive declaring the person as a refugee then his rights are defined in Qualifications Directive.

Finally, another remote control measure imagined and put into force was ‘carriers liability’ which is a part of visa system originally again a Schengen initiative. Before achieving a single market with common borders a visa list was established as part of the 1993 Dublin Convention. The number of countries whose citizens require visa to travel to Europe was re-assessed in JHA Council in 1995. Later on in 2001 two lists, which have come to be known as the ‘black list’ and the ‘white list’, were announced. “At present, the black list embraces 101 countries, including all of Africa, most of Central, South and Southeast Asia and large parts of Central America” (Gammeltoft-Hansen, 2006: 25).

Moreover, based on the Article 26 of the Schengen Implementation Convention, the carriers were made liable for returning aliens who were carried by themselves that were refused entry. Also they needed to take necessary measures to make sure that an alien using their company had the necessary travel documents. Council Directive 2001/51/EC of 28 June 2001 specified in detail what is expected from carriers and provided the right to fine them upto 5000 Euros per rejected person. With this, states that are the main authority to deal with migration and asylum, pass the responsibility to protect borders to flight companies. Gammeltoft – Hansen correctly claims

The imposition of obligations on private transport companies to pre-screen passengers at embarkation and subsequently take responsibility for any inadmissible persons marks not only an externalisation of control mechanisms, but even their privatisation, in which the EU's ability to control migration is enhanced by delegating responsibility for control to private companies. Carrier sanctions thus become a partnership between the state and private companies, in which a cooperative control strategy is used to remotely control migration. This complements the visa requirement, which constitutes the initial EU risk analysis. Carrier officials then take over the function of actually checking valid travel documents, visas and potential forgeries, and identifying which risk group travellers belong to, before allowing these persons to embark (Gammeltoft-Hansen, 2006: 26).

Again the most vulnerable group have been the asylum seekers. Their right for asylum have been prevented through indirect means. As the current international refugee regime requires an asylum seeker to be physically present at the country to which they seek asylum, unless they have necessary passport and visa they would be prevented from travelling by the carrier companies. In view of the fact that asylum seekers in many cases act in urgency this brings another hindrance for them, indeed force them resort to risky adventures.

Therefore as exemplified clearly by carrier liability applications, current visa regime is a way for 'remote control'. Sometimes the agent of remote control is the border polices of the third countries, sometimes the employees of travel

companies. Again Gammeltoft-Hansen clearly and correctly interprets this situation in the following way

They are not cloaked in any humanitarian or development discourse, but are clearly restrictive and preventive in nature. The implementation reflects a risk management strategy and consequently present reflexive problems...Given the impossibility and undesirability of complete control, policies are implemented on the basis of a multilayered risk analysis. Like Bigo's 'banopticon' system...control is not omnipresent but targeted at certain risk groups (as in the case of visa systems) or particular individuals (as in the case of profiling by carriers) (Gammeltoft-Hansen, 2006: 26).

Contrary to nation states whose borders change only through exception, it has become the norm for the Union to peacefully change its borders as a result of several rounds of enlargement. The increasing importance of borders had two main reasons, the radical change with the end of the Cold War regarding the function of border as frontiers. And secondly, the big bang enlargement and its overwhelming scope which created questions about the final borders of the Union. Last round of EU enlargement has been critical in formulating tools of remote control and incorporating them all into the EU acquis. Prospective members have to go through similar paths such as the case with Turkey, which will be scrutinized in detail in the next chapter.

#### **4.3.2.2 EUROPEAN NEIGHBOURHOOD POLICY AS EXTERNALIZATION**

Enlargement has been represented as a powerful tool for peacefully transforming the neighbourhood of the Union. However, it had its limits. "It has become increasingly clear that despite the success of enlargement, or precisely because of it, the EU cannot indefinitely rely on the same instrument as a means to engage with its neighbours" (Comelli et al, 2007). As already mentioned European Commission identified several policy tools in its communication on the strategy for external action on the AFSJ. One of these was the European Neighbourhood Policy (ENP).

After enlargement the EU faced with a new combination of neighbours, some of which aspired to join the Union. Enlargement increased the attention on the issue of borders particularly on two areas, the security of external borders now being controlled by the new members and function of borders as regards new neighbours. The security of external borders were tried to be secured through standardization of practices all around the Union. As for functioning of the borders ENP was an attempt for solution. Altering the nature of the EU's borders, from acting as barriers into being borderlands and border regions was a crucial aspiration of the Union. Therefore, ENP is a result of contradictory demands on the side of the Union; developing an alternative to enlargement, but at the same time "preventing future EU borders from becoming hard exclusionary boundaries and developing instead into integrated borderlands" (Comelli et al, 2007).

Enlargement resulted in the history of the EU to be characterized by continuous modifications of borders along two parallel paths. Internally, as the internal market was achieved the relevance of borders among members ceased to exist. On the other hand, externally the borders kept its salience and kept changing as a result of successive rounds of enlargement. Yet, the Union also worked on finding new ways of cooperation with the neighbourhood so as to prevent borders becoming new barriers. A crucial component of this has been the effort to extend the legal *acquis* of the EU beyond its borders. Linked to this, Sandra Lavenex argues that the EU is capable of 'external governance', which occurs precisely when the institutional /legal boundary is moved beyond the circle of its member states (Lavenex, 2004).

It is thus possible to expand the EU's legal boundary beyond member states- meaning the territorial scope within which Community law is applicable- without an accompanying expansion of the Union's institutional boundary that is without enlargement and full participation in EU institutions (Comelli et al, 2007).

A comprehensive framework for the EU to deal both with the eastern neighbours and Mediterranean countries in the south, or to put it in Lavenex's terms for

external governance, was presented by the Commission in its 2002 work programme and also a letter written together by the Council High Representative Javier Solana and Commissioner Chris Patten in August 2002. There were several suggestions from member states on the nature of the relationship to be established with neighbours. All these were formulated in the *Wider Europe- Neighbourhood: A New Framework for Relations with our Eastern and Southern Neighbours* Communication of March 2003 (European Commission, 2003a). It was adopted by the Council the same year and cleared the air in terms of the content, geographical scope and objectives of the policy. Thus, Commission since 2003 laid the grounds for reasoning an alternative policy tool. This alternative policy tool was so framed to represent the interest of both parties and also as the outcome of responsibility of the Union. For instance, the Commission claims that “[t]he EU has a duty, not only towards its citizens and those of the new member states, but also towards its present and future neighbours to ensure continuing social cohesion and economic dynamism” (European Commission, 2003). The way Commission defines achieving political stability and economic development passes through promoting regional integration and cooperation. The Commission in the beginning tried to prove that cooperating with the neighbours is good for both parties, specifically in areas of migration policies, customs procedures and frontier controls. A crucial argument was that this way, delay in transferring goods and crossing borders for people would be prevented. The externalization of border control, migration and asylum would take place in the meantime as side effects. In this context, the Commission argues that

Infrastructure, efficient border management and interconnected transport, energy and telecommunications networks will become more vital to expanding mutual trade and investment [...] Equally, threats to mutual security, whether from the trans-border dimension of environmental and nuclear hazards, communicable diseases, illegal immigration, trafficking, organized crime or terrorist networks, will require joint approaches in order to be addressed comprehensively (European Commission, 2003a: 6).

Further details of the ENP were declared by the ENP Strategy Paper published in May 2004 (European Commission, 2004). For many of the regions and countries

covered by the ENP, the Union already had policies such as the Barcelona Process for the Middle East. The ENP Strategy Paper clarified the relationship between these and the ENP. The main operational instruments of the ENP are the country specific Action Plans (AP). These are not legal agreements but political accords between the EU and the individual neighbours. They are agreed as a result of negotiations and they are result oriented and specific. Dandış argues that “[t]he priorities identified and determined in Action Plans ought to be not only ambitious, but also practical, accurately formulated, so that they can be measured and the progress resulting from their implementation be monitored” (Dandış, 2009: 40). On the obligations side of the ENP, the APs identify areas of desirable reform within the neighbouring countries. They include jointly agreed reforms in the political, economic, social, legal and institutional domains that would allow and facilitate the neighbouring countries’ receipt of EU benefits. On the benefit side instead, the APs list the possible gains and areas of cooperation between the EU and the neighbours, including political dialogue, trade and the preparation for gradual participation in the internal market; justice and home affairs; networks including energy, transport, information society, the environment; and people to people contacts such as culture, technology and education. All these agreements and negotiations took place among European and national bureaucracies.

A crucial issue was the way to fund these operations specified in APs or the issue of ‘carrot’. To clarify this, the European Commission adopted the document *Paving the Way for a New Neighbourhood Instrument* (European Commission, 2003b) on 1 July 2003. It proposed a two tiered approach. From 2004 to 2006 it aimed at better coordinating several financial instruments and from 2007 onwards a new budget line was planned to replace these (Dandış, 2009: 36). Following this Commission Communication, a Regulation was adopted on 11 October 2004 regarding the New European Neighbourhood and Partnership Instrument. Similar to the case with enlargement, the EU specified financial tools to support and encourage countries for transformation in the way it desires.

As discussed, the objectives of ENP mainly revolved around the issue of borders. Similarly Cornelli et al (2005) argue that ENP had a micro and a macro objective which can be summarized as: attaining exchange within border regions and creating a ‘ring of well-governed countries’ to the East and South of the Union. The Union tried to avoid creating new dividing lines, alienating neighbours, and unexpected cuts off in terms of history, culture and economies of Europe. Fostering cross border cooperation and exchange has been a high priority and specific financial instruments were devoted for that. On the other hand, the macro perspective defined the neighbourhood in association with security of Europe specified in the 2003 EU Security Strategy as to foster, through inclusion but without membership, a “ring of well-governed countries to the East of the EU and on the borders of the Mediterranean with whom the Union can enjoy close and cooperative relations” (European Council, 2003). This close and cooperative relations became more and more problematical especially in the Mediterranean region with the establishment of FRONTEX, which enable policing operations in open waters. This led to increased militarization of migration field, immigration control measures outside EU territory and increasing insecurity for asylum seekers (OXFAM, 2005).

Another objective of the EU was related to its perception of the changing nature of borders in a globalizing world their porous nature where threats could not be blocked by insulated borders. Comelli et al argue that

Pinpointing the neighbourhood as an EU priority area is the natural consequence of proximity. Proximity entails that much of the instability, conflict, state failure repression and violence that besiege these regions could have negative spillover effects into the Union. In addition, increasing economic pressures and cascading interdependence reduces the EU’s capacity to insulate itself from its neighbours. Hence, it is in the EU’s interests to contribute to their democratic, rule-bound and peaceful transformation. Focusing on the neighbourhood also has a wider rationale. Global threats such as weapons proliferation, terrorism and the illegal trafficking of drugs and people have been identified as either stemming from or transiting through EU neighbours. Finally, EU actors increasingly

appreciate the global nature of the threats facing Europe today, which cannot be adequately tackled through insulation (Cornelli et al, 2007).

Therefore, the Union seeks to replace the logic of inclusion and exclusion and create a 'liberal' environment that facilitates trade, interaction leading to transformation however, without a say in the institutions of the Union. Guild et al. states that "[t]he new vision is for an open and integrated market functioning on the basis of compatible or harmonised rules and further liberalisation" (Guild et al. 2007: 7). In this context, the Commission Communication defines eight measures in formulating the new regime:

- 1- A long stay visa policy to facilitate cultural and technical interchange;
- 2- An efficient and user friendly system for small border traffic;
- 3- Facilitating movement of citizens of neighbouring countries to participate in EU programmes and activities;
- 4- Visa free access to holders of diplomatic and service passports;
- 5- A wider application of visa-free regimes;
- 6- A common approach to integration of third country nationals with special emphasis on nationals of neighbouring countries;
- 7- Assisting neighbouring countries' efforts to combat illegal migration and return policies;
- 8- Concluding readmission agreements with all the neighbours as an essential element in joint efforts to curb illegal migration (Guild et al, 2007).

However, Guild et al correctly point out the inherent incoherence in the list. Although the overall objective may at first sight seem to be inclusion and more freedom to foster interaction, 7<sup>th</sup> and 8<sup>th</sup> items are somehow contradictory with the overall objective. Indeed, within the concrete Neighbourhood Action Plans there are four main headings which touch on migration:

- Visas for short stays. This is a contentious field which is governed by the EU regulation on countries whose nationals are subject to a mandatory visa requirement;
- Possibilities for legal migration;

- Irregular migration which is a major matter of consideration and provisions in all of the Neighbourhood Action Plans;
- Asylum and Border Management (Guild et al, 2007: 14).

The ENP, thus, was based on the notion of increasing the influence of the Union, by transforming the rigidity and exclusive nature of borders. It does have a preventive and constructive reasoning. Moreover, it is seen as a tool of external policy of the Union. It provides a bigger umbrella for several programmes targeting the neighbourhood of the Union which in the end increases the influence of the EU in the region.

Finally, while the purpose of the Neighbourhood Policy is to increase stability, peace and prosperity in the region, this does not mean that all neighbours are treated alike. In fact, the ENP Action Plans differ substantially in many ways. The issue of movement of persons is no exception. Some agreements include many provisions which relate to movement of persons while others mention nothing at all.

#### **4.4 PRACTICES OF THE EU: SURVEILLANCE AND THE USE OF BIOMETRICS**

Another practice of the Union in controlling borders and migration is surveillance. Indeed, the emphasis in this practice is gradually increasing. The most recent example is the Stockholm Programme.

The formal inclusion of the Schengen Treaty within the *acquis* with the Treaty of Amsterdam resulted in the proliferation of border control measures as well as a qualitative change in their nature. Indeed, according to Mitsilegas the terminology even shifted from border controls to border security, which was accentuated with the September 11, 2001 events (Mitsilegas, 2007: 359). Since border control refers to a governing activity, border security includes a pre-emptive dimension as

well, which is best exemplified with profiling people through different databases for surveillance.

One of the main conclusions of the Laeken European Council, which was held shortly after 11 September 2001 events, was the need for more effective control of external borders. Better management of external borders of the Union was pictured as one of the best methods to fight against terrorism, illegal migration and human trafficking. Thus the Commission was asked to reflect on the possibilities of creating a mechanism to control external borders. As a result of this the idea of establishing the European Agency for the Management of Operational Co-operation at the External Borders (Frontex) emerged as well as the idea of integrated border management (IBM).

Therefore, both at the national and European level there have been a trend to employ creative methods of surveillance. Relying on biometrical data of individuals is one such method which is the new 'trend' among security instruments and one of the favourite of security agents. Brouwer defines biometrics as "[...] automated methods of recognising a person based on a physiological or behavioural characteristic" (Brouwer, 2006: 137). This, although a bit twisted, links back to bio-politics argument of Foucault, where biology of human being becomes a tool and arena of politics. These characteristics include but not limited to fingerprints, retinal and iris scanning, voice patterns. The use of biometrical data in passports and travel documents are becoming an oft-repeated priority of governments, to fight with issues as diverse as visa shopping to illegal immigration to terrorism. This tendency is quite clear in European governments, which is also supported with EU wide measures. Thus, the European Union also supports arming "the big brother" of an Orwellian society imagined by George Orwell in his book *1984*. In this context, an important component of EU border and migration management system is the large network of surveillance and identity systems that are being used in different areas. There exist different electronic databases that are aimed to be better coordinated lately to supervise the

movement of people and goods. That is, the EU is increasingly benefitting from what the risk society is to promise in terms of science and technology in controlling its territories, which according to Beck's argument creates new risks in trying to compensate for others. One of the foremost is the potential to eradicate the right for protection of personal data and right for privacy.

The main databases in use in Europe are Schengen Information System (SIS), which is recently upgraded and called SIS II, the database for keeping the records of asylum applicants EURODAC and finally the database where information on visa applications are stored, which is called the Visa Information System (VIS). Moreover, since 2004 the Union agreed on tracking the passenger data moving in and out of the Union by air through a "Passenger Name Record" (PNR) system. The data for this system is provided by airline companies through their booking systems. Lately a major concern has been how to facilitate the interoperability of databases to increase the efficiency.

In its Communication on the implementation of the Hague Programme, the Commission links the establishment of an area where the free movement of persons is fully ensured, with the necessity of "an integrated control of the access to the territory of the Union, based on an integrated management of external borders, and with the support of new technologies, including the use of biometric identifiers" (Brouwen, 2006: 137). Parallel to the concern of European Council, Commission is also concerned with increasing the efficiency and effectiveness of these surveillance tools in fighting against illegal immigration and improving border controls. Brouwen makes an important observation about the increasing emphasis on databases, exchange of information and interoperability of different systems and databases. According to him, the first link was established between border controls and immigration control with fight against terror and ensuring internal security. This helped authorities to connect different tools, most commonly databases built for separate purposes. This put third country national who is willing to enter the Union or already residing within the Union as the

object of all these. Indeed, these tools, such as biometric passports, enable states to track their citizens all around the globe as well. This fundamentally alters relations between states, citizens and third country nationals. In this context, Brouwen correctly argue that particularly migrants

As an unprivileged group, they are left without or with few rights when confronted with extra controls and possible wrongful identification. In the second place, EU policy makers tend to degrade the meaning of fundamental rights of data protection and privacy, by upgrading other public interests or tasks. Describing these rights merely as a 'notion', privacy and data protection are thus opposed to the 'collective right to security' or to 'the principle of availability'. The new emphasis on 'securitization' undermines as well another fundamental principle of European law: the freedom of movement. Freedom of movement is difficult to achieve if national authorities have the possibility to control people always and everywhere, in-and outside the EU territory (Brouwen, 2006: 138).

#### **4.4.1 SCHENGEN INFORMATION SYSTEM (SIS)**

Schengen Agreement, as already discussed in Chapter II, was an intergovernmental initiative that took place parallel to the efforts of achieving a single market. Benelux countries as well as Germany and France agreed in 1985 on gradually abolishing border controls with an agreement signed in the city of Luxembourg called Schengen. Later on in 1990 the Schengen Convention was signed which stated concrete measures to establish a border-free zone. It became operational in 1995 and created a single external border where border control measures became uniform. However, as already mentioned several times, it was claimed a crucial precaution to reconcile freedom and security was needed which was taking 'compensatory measures'. This included measures like improving coordination and cooperation between national security and judiciary officials and establishing databases. SIS was one of those compensatory measures and was a tool designed to increase the coordination and flow of information regarding goods and people.

SIS was believed to create value added especially in two areas: to guarantee the authenticity of documents and the identification of illegal residents. It is an integral part of the Schengen legislation which is comprised of the decisions and declarations adopted by the Executive Committee set up by the 1990 Implementing Convention. The legal basis of the SIS is the Title IV of the Convention of 19 June 1990 implementing the Schengen Agreement of 14 June 1985. It became operational on 26 March 1995 when internal borders were abolished between participating countries. SIS is one of the oldest among all these databases and surveillance mechanisms due to its historical evolution as a product of an intergovernmental cooperation. It is generally described as the keystone for abolish internal border controls between Schengen states. In its proposal for a Council Decision, the Commission clearly defined the purpose of SIS as an information tool used by defined national authorities to cooperate by exchanging information in establishing a borderless zone. The Commission defines its role and legitimizes its existence in its following sentences:

It allows these authorities, through an automatic query procedure, to obtain information related to alerts on persons and objects. The information obtained is used, in particular, for police and judicial cooperation in criminal matters as well as for controls of persons at the external borders or on national territory and for the issuance of visas and residence permits. The SIS, therefore, is an indispensable component of the Schengen area for applying the Schengen provisions on the movement of persons and in ensuring a high level of security in this area. Consistency with a wide range of policies linked to control of external borders, visa, immigration and also police and judicial cooperation in criminal matters is, therefore, essential (European Commission, 2005d).

It is generally claimed SIS lies at the heart of implementation. There exists a central system which is located in France and flow of information to this centre is managed through IT networks in member countries that are called N-SIS. There is also a human interface of this network in each country, which is called SIRENE (Supplementary Information Request at the National Entry).

As the Schengen legislation became part of the Union acquis and as it became compulsory for prospective members to adopt in full, restrictions of the system became clearer. Originally SIS was designed for initial members of Schengen and had the capacity to serve up to 18 countries. With enlargement the system needed to be upgraded. SIS II is planned to be the second generation that will enable the involvement of new members. But also it is planned to benefit more from the advancements in technology. Since 2000, member states are preparing the development of the so-called 'second generation SIS or SIS II'. Mitsilegas draws attention to an important point that the crucial idea behind developing SIS II was not just allowing newcomers to join the system but to extend the categories of data to be stored in these databases as well as to broaden the number of national bureaucracies who shall access to these data (Mitsilegas, 2007: 288). Bertozzini summarized the mentality of the Union:

The fundamental question is how to make Europe's controls more effective, more technologically advanced and more responsive to the new challenges posed by globalisation with a certain degree of success, without impinging on the principle of free movement of people or the important principle of data protection (Bertozzini, 2008: 2).

However, Bigo and others underline the disparity in terms of data protection of EU citizens and third country nationals. The Council during this process adopted two main legislative instruments on 6 December 2001, a regulation and a decision making the Commission responsible for developing SIS II and providing for the related expenditure to be covered by the general budget of the EU (Council Decision of 6 December 2001 on the development of the second generation Schengen Information System and Council Regulation (EC) No 2424/ 2001 of 6 December 2001). In addition, it adopted a new regulation on 29 April 2004 and a new decision on 24 February 2005 to give the current system certain workable functions as SIS II could not become functional. For its part, the Commission already published a communication on 18 December 2001 examining ways of designing and developing SIS II. Following studies and discussions relating to the architecture and functionalities of the future system, on 31 May 2005 the

Commission presented three proposals for legislative instruments intended to form the new legal foundation. Two instruments; Regulation on aspects of the SIS II "1st pillar" (OJ L 381/4 of 28.12.2006) and Regulation on access to SIS II by the services responsible for issuing vehicle registration certificates (OJ 381/1 of 28.12.2006) were adopted on 20 December 2006. The third instrument (Decision determining aspects of the SIS II "3rd pillar") was adopted on 12 June 2007 (OJ L 205/63 of 7.8.2007).

As it took longer than expected to set up SIS II the Justice and Home Affairs Council of December 2006 gave its endorsement to the SISone4all project. It was coordinated by Portugal. SISone4all is an interim solution to enable nine EU-2004 member countries to be plugged in to the existing version of SIS1+ (with some technical adjustments) in order to allow these countries to complete the Schengen evaluations as soon as possible with a view to abolishing internal border controls.

Nine of the ten member states that joined the European Union on 1 May 2004 are now legally bound by the entire Schengen *acquis*. Controls at land and maritime borders were abolished on 21 December 2007. In order to be admitted to the Schengen zone they had to go through a detailed examination process. After two intensive years of evaluation, nine member states have met all the conditions required for the application of compensatory measures and the dismantling of internal border controls. The Schengen area is now composed of twenty-five countries. During this process, the Union provided financial and technical help. A new tool, known as the "Schengen Facility" was set up for this purpose (Bertozzini, 2008: 16).

Below table shows the breakdown of 2004-2006 Schengen facility funding in million Euros:

Table 4.1 The Breakdown of 2004-2006 Schengen Facility Funding

<b>Member state</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>
Estonia	22.9	22.9	22.9
Latvia	23.7	23.7	23.7
Lithuania	44.78	61.07	29.85
Hungary	49.3	49.3	49.3
Poland	93.34	93.33	93.33
Slovenia	35.64	35.63	35.63
Slovakia	15.94	15.93	15.93

*Source:* European Commission, "Justice and home affairs issues both new and crucial to EU enlargement process" (retrieved from [http://europa.eu.int/comm/justice\\_home/fsj/enlargement/wai/fsj\\_enlarge\\_intro\\_en.htm](http://europa.eu.int/comm/justice_home/fsj/enlargement/wai/fsj_enlarge_intro_en.htm)).

To recap, the five original participating countries were France, Germany, Belgium, the Netherlands, and Luxembourg. Nineteen additional countries have joined the system since its creation, including Spain, Portugal, Italy, Austria, Greece, Finland, Sweden, Switzerland, Denmark, Iceland, Norway, Estonia, the Czech Republic, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia. Currently, the Schengen Information System is used by 27 countries. Among the current participants, Iceland, Norway, and Switzerland are not members of the European Union. Although the Republic of Ireland and the United Kingdom, have not signed the Schengen Agreement they take part in Schengen co-operation under the terms of the Treaty of Amsterdam, which introduced the provisions of Schengen Acquis into the European Union. Ireland and the United Kingdom use the SIS for law enforcement purposes. However, they do not have access to all data, because they do not intend to remove the border controls between themselves and the rest of Europe. European citizens still have the right of free movement to the UK but they must pass through a border control point, unlike in the rest of the Schengen signatory countries, where internal border controls have been largely abolished.

#### **4.4.2 EURODAC**

EURODAC is another database currently in use within the Union linked to the Common European Asylum Policy, which was stated as one of the targets in the Treaty of Amsterdam, and gained momentum with the Tampere Summit and the following action plans. Tampere set the goal for realizing the first phase instrument of the asylum system in the short term. One of these included defining the responsible state for examining asylum claims. In this context, following Amsterdam Treaty the EU has adopted several policy instruments. However, harmonization in the field of asylum, though at the inter-governmental level, started long before Amsterdam.

Parallel to the works in Schengen, in 1990, EC members signed an agreement called the Dublin Convention, to define the responsibility of countries in examining asylum applications. Ministers responsible for immigration met in Hague in December 1991, where they concurred that a feasibility study for a Community wide fingerprint system for asylum applicants should be undertaken. Thus, the seeds of EURODAC were sown by then. Efforts to set up “a system for the computerized comparison of fingerprints in order to facilitate the application of the relevant rules for determining which Member State is responsible for considering an application for asylum” has been going on since (Guild, 2006: 63). It took seven years for the Dublin Convention to take effect and only in 1 September 1997 all the countries ratified it (Özcan, 2005: 169). The main idea behind Dublin was to prevent “asylum shopping”, which aims to prevent an asylum application to be filed in several countries either simultaneously or consecutively.

Thus, the origins of the idea go back to Dublin Convention of 1990, which replaced the Chapter VII of the Convention Applying the Schengen Agreement. EURODAC is also a product of the same ‘compensatory measures’ mentality in a borderless area. As already stated, EU was given competence in the field of

asylum with the Amsterdam Treaty. However, it already inherited a body of measures which sought to coordinate action among the Member States in the field which had been developed both in the Third Pillar of the Union between 1993-1999 and some measures which predated even the Third Pillar. Dublin Convention relating to the determination of the state responsible for an asylum application which was opened for signature in 1990 is one such example which laid the ground works of the system (Guild, 2006: 62). The Dublin Convention was based on three main principles:

- 1- An asylum applicant has only one opportunity to make an asylum application in the territory of the Member States and that decision, provided it is negative is respected by all of them (though there is no mutual recognition if the decision is in favour of the refugee);
- 2- It is for the Member States to determine which Member State will be responsible for considering the asylum application irrespective of the wishes of the asylum applicant;
- 3- Among themselves, it is the Member State which permitted the asylum application access to the common territory which must take responsibility for considering the application and caring for the applicant during the process (Guild, 2006: 62-63).

At this juncture, an initial step was taken to establish a database to file all the applications to prevent multiple applications. EURODAC is the database where fingerprints of asylum seekers and illegal immigrants seeking access to one of the Member States are collected.

European Council, further to the statement in Article 63 (1) of the Treaty of Amsterdam, adopted a Regulation (EC No 2725/2000) concerning the establishment of "EURODAC" for the comparison of fingerprints for the effective application of the Dublin Convention. Regulation 2725/2000 was adopted in 2000 and the system became operational in 2003. The Article 1 of the Regulation summarizes the purpose of the database as

[...] to assist in determining which Member State is to be responsible pursuant to the Dublin Convention for examining an application for asylum lodged in a Member State, and otherwise to facilitate the application of the Dublin Convention under the conditions set out in this Regulation (European Council, 2000b).

Similar to the case in SIS, Ireland and the UK opted into the measure whereas Denmark abstained according to the Protocols annexed to Amsterdam. .

On the other hand, the following Articles 4,5,6 succinctly summarize the reasoning for establishing this database. According to this, fingerprints are crucial in determining the identity of an asylum seeker and collecting and comparing these is vital. A Central Unit to be established within the Commission will operate a database of fingerprints and enable the flow of information between members. There is also a time limit to store the data which is ten years, after which it is deleted. The Council adopted another Regulation in 2002, EC Regulation 407/2002, to specify the rules of practice, which mainly focuses on registering fingerprints on a digital atmosphere and methods of sharing it. The data to be recorded when an asylum application is lodged are as follows:

- a) Member State of origin, place and date of application for asylum
- b) Fingerprint data
- c) Sex
- d) Reference number used by the Member State of origin
- e) Date on which the finger prints were taken
- f) Date on which the data were entered into the central database
- g) Details in respect of the recipient(s) of the data transmitted and the date(s) of transmission(s) (Guild, 2005).

Dublin Convention has been replaced by the Council Regulation 343/2003 (Dublin II) of 18 February 2003. Dublin II brought new facilities to the system to make it more effective and efficient. Once EURODAC became operational annual reports were started to be prepared. The first of such reports was published on 5 May 2004 which was followed by annual reports in consecutive years. These

reports provide statistical data on the info uploaded to the database and the hits they receive (Guild, 2005: 72). It has three types of data related to; asylum applications, aliens caught in crossing an external border, aliens found illegally present in one of the Member States. The second report was published in June 2005. However, the numbers were much higher compared to the previous year as it covered the period when new members acceded to the Union in 1 May 2004. “Over this period the Central Unit received 287,938 successful transactions” (Guild, 2005: 73).

EURODAC only records fingerprints and an identification number, yet not the names of the applicant. The main argument for this is the safety of the asylum seeker in view of the possibility of home countries to access this data somehow. Elspeth Guild, in this context, correctly draws attention to the logic of the system and its mentality. She states that

In the EURODAC system the body of the asylum seeker becomes increasingly separated from an essential element of his or her legal personality, the right to be present. The body takes on an identity and is followed via its fingerprint data across borders while that part of the body’s legal personality which gives the right to be present remains trapped in one jurisdiction (Guild, 2005: 76).

Guild correctly argues this affects the nature of the law, territory and asylum seeker. The legality of his physical presence becomes linked to his biometric indicators. Up until the discovery of biometrics in 1991 in the asylum field, the papers of the asylum seeker provided by his country of origin was essential. However, with this database, his body has become the tool to trace his origin and right to exist in a country. This is directly linked to the distrust to the documents and the statements of the asylum seeker. Thus, the EU preferred to replace it with a definitive method with the help of technological developments.

#### 4.4.3 VISA INFORMATION SYSTEM (VIS)

Visa regime has been represented as one of the major tools of EU migration and border control regime. This has been stated in several documents. For instance, just before the Thessaloniki European Council meeting, the Commission published a Communication on *The Development of a Common Policy on Illegal Immigration, Smuggling and Trafficking of Human Beings, External Borders and the Return of Illegal Residents* (COM(2003) 323). This communication laid the ground for the conclusions adopted at the Thessaloniki Summit on different areas of a common migration policy and visa policy was among those. Following this, the Communication of the European Commission on a *Community Policy on Illegal Immigration* was issued. Again, the strategy formulated had seven main components; one of which was increasing the security of visa and other documents. Therefore as part of externalization efforts a comprehensive visa regime has been built, part of which is the Visa Information System (VIS) database.

Crucial components of visa policy of the EU has been adopting a uniform list of countries to apply visa, a uniform visa format and adopting security standards for preventing forgery. Thus, as an initial step for cooperation in the field of visa policy, a common list of countries whose nationals are exempt from visa and whose nationals do need visa to enter the Union was defined with a Council Regulation (539/2001). Moreover, a common administrative structure that allows cooperation of EU consulates in third countries was planned. Major instrument built to provide the security of visas is a database. The project of setting up a VIS was agreed on by the Council in June 2002. It aims to benefit from modern IT technology that shall ease travelling for bona fide travellers but also allow authorities to detect mal-intentioned. VIS is a system for the exchange of visa data between members, the main objectives of which are to prevent

[...] the use of fraudulent documents; to improve visa checks; to improve identifications of individuals for the application of provisions in relation to

Dublin II and the return procedure; to enhance the administration of the common visa policy; to prevent ‘visa shopping’ by ensuring the traceability of every individual applying for a visa and to strengthen EU internal security” (Balzacq and Carrera, 2006: 22).

This issue received attention almost in all European Council meetings. For instance, the European Council of Thessaloniki held on 19- 20 June 2003 concluded that a consistent approach regarding the use of biometric data should be developed. Documents for third country nationals, EU citizens’ passports and information systems should all be a part of this. Then in June 2004, the Council adopted a Decision (OJ L 213/5) which constituted the legal basis for the establishment of VIS. It was followed by negotiations to formulate its exact purpose, functions and the rules for retrieving and exchanging data. According to this VIS would be designed for member states to pile all relevant data including visa applications, refusals, and annulations or extending visas. In practice this meant storing millions of data for five years (Brouwer, 2006: 147). The VIS was planned to be comprised of two interfaces: a Central Visa Information System (C-VIS) and a National Visa Information System (N-VIS). Thus, again similar to SIS there’s a two way connection.

An interesting point was the link established between visa issues and internal security which resulted in calls for enabling security agents to access all the data stored in this database. Mitsilegas states that “...the logic of the ‘security continuum’ can still be discerned, with Article 1(2)(a) [of the OJ L 213/5] of the proposal stating that one of the purposes of VIS is ‘to prevent threats to internal security of any of the Member States” (Mitsilegas, 2007: 390-391). The issue of visa is an interesting tool that enables the Union classify countries according to risk potentials and categorize citizens of certain countries as potential criminals even before reaching the territories of the Union. Indeed, anyone willing to travel to the EU who is in need of visa, would need to provide biometrical data to relevant authorities, as well as several other personal documents ranging from details of bank accounts to properties owned.

#### **4.4.4 PASSENGER NAME RECORDS (PNR) AGREEMENT**

Another tool of surveillance is recording the travellers' data and sharing it before they land into their destination country. It is known as Passenger Name Records (PNR). The idea was first formulated in the US after September 11, 2001 events. In November 2001 legislation was passed in the US that made compulsory for air carriers coming to, from or through the country to forward the data of passengers received while booking and departure control system to the US Customs. Although at first sight this might seem a minor thing, Mitsilegas correctly reminds that "PNR data can include a wide range of details, from passengers' names and addresses to their email addresses, credit card details and on-flight dietary requirement" (Mitsilegas, 2007: 380). This legal amendment in the US made European carrier companies either share the required data or become unable to fly to the US.

Initially this idea was met with resentment within the Union, particularly fearing low standards in data protection. The Commission furthered talks with US authorities to find a common ground for the implementation. In the meantime the EU also passed new legislation in this area. In 2003 the Spanish Government proposed a Directive of Advance Passenger Information. It was adopted in 29 April 2009 as Council Directive 2004/82/EC. Indeed, the first article of it states that it aims at improving border controls and combating illegal immigration by the transmission of advance passenger data by carriers to the competent national authorities and harmonizing financial penalties as much as possible (Council, 2009). Mitsilegas argues that

By linking order controls and the fight against illegal immigration with the fight against crime and terrorism, the Directive paves the way for the routine transmission of everyday personal data to a number of authorities in EU Member States, which can then start building the profile of all those travelling into the EU (2007: 380).

The crucial point about the transfer of PNR data is gaining the access to the information on who travels to the Union before that person actually lands in. Again, the physical presence and the data are de-coupled. The EU is more sensitive to the values it is build upon; however, the nature of law has changed as a result of technological developments which results in imagining new ways of governing.

To conclude, as discussed and exemplified above the EU has been devising externalization and surveillance tools to control the conduct of others as well as its own subjects. The latest round of enlargement has created a sense of urgency on issues of internal security and accelerated the process of adopting different measures in this field. However, this security oriented way of seeing borders, migrants and asylum seekers is not a product of last round of EU enlargement. Long before 2004 enlargement in 1999 a draft roadmap was already adopted to ensure the safety of the Union after the enlargement. Indeed, the formulation of this security discourse around borders and aliens goes way back in time to the times of Schengen Agreements and Trevi. However, they found wider acceptance as a result of anxiety regarding the capability of new members, September 11 events and misrepresentations of globalization. Indeed, also with the help of technological developments, tools for externalization and surveillance became much complicated. These tools are represented as inevitable measures to safeguard internal security; however, they bear the potential or 'risk' to threaten the security of individuals by making them part of a total surveillance system where their simple and daily actions and preferences are located. Indeed, externalization tools export these concerns, tools and methods to third countries which do not have necessarily the best human rights records.

## CHAPTER V

### TURKEY AND THE EUROPEAN BAN-OPTICON: A CASE STUDY

*Turkey has adopted an ambitious action plan to reach alignment with the EU acquis on asylum and migration over the coming years.*

*UNHCR, 2005*

*[Turkey is, similar to CEECs, facing] the conflicting requirement of sealing [its] borders against illegal immigration whilst upholding the humanitarian standards of refugee protection.*

*Sandra Lavenex, 1999:4*

#### 5. 1 INTRO

This chapter takes Turkey as a case study, to inquire in detail the methods and tools of EU border management in third countries. Turkey's ability to satisfy, albeit sufficiently, the famous Copenhagen Political Criteria for EU membership has been approved by the 2004 European Council decision which agreed to open accession talks with Turkey. This was a crucial turning point for Turkey- EU relations, despite the following discussions about the open-ended nature of negotiations and the ambiguity of the end result. Although Turkey's full membership is still being discussed and with plenty of humps on the road to full membership, harmonization efforts are continuing. Turkey is spending – though

not so fast lately- efforts to fulfil criteria for membership. This means, Turkey is adopting European ‘standards’ and practices, adjusting itself to European laws and norms despite the final outcome of negotiations.

As a country officially started accession talks with the EU, changes in Turkey are often explained with the help of the concept Europeanization, which when put in the simplest form refers to “an incremental process reorienting the direction and shape of politics to the degree that EC political and economic dynamics become part of the organizational logic of national politics and policy-making” (Robert Ladrech quoted in Bache, 2008: 10). Or another conceptualization could be “the transformation of traditional modes of governance across policy-making levels and areas” (Kale, 2005: 64). This transformation in Turkish case results in administrative, legislative and political changes realised in close cooperation with Eurocracy. Indeed, Europeanization literature has generally a more positive interpretation in understanding this change, even in some cases a teleological one. This work, instead adopts a critical stance particularly related to border control and migration policies that traces the functioning of power and creation of new subjectivities by focusing on practices rather than just institutions. When contextualized within the whole project, this chapter takes Turkey as a case study to discuss the EU’s efforts to ‘conduct the conduct’ of its periphery, in this case Turkish agents in charge of border control, migration and asylum and to see the concrete changes taking place on the ground.

To this aim, it will first provide a short summary of EU-Turkey relations and the nature of accession talks. The following section will discuss the existing border management system in Turkey or in other words the security dispositif in Turkey regarding border management and migration before the influence of the EU. It will then discuss the membership negotiations, including the political criteria for membership as a means to “civilize” security actors, which indirectly would affect asylum and migration originating from Turkey. Chapter 24 of the EU accession talks, the way for importing European ‘governmentality’ through *acquis*

harmonization and capacity building projects as a form of governing will follow. It will inquire the European approach, expectations, capacity building efforts and more importantly the underlying mentality behind these and what sort of a transformation it foresees. It will mainly discuss relations from a migration lens, both forced and voluntary and finally reveal how the EU accession process changes, incorporates Turkish security agents, creates new subjectivities and integrate Turkey into European ban-opticon.

## **5.2 CONTEXTUALIZING TURKEY-EU RELATIONS**

Turkey- EU relations have been discussed in various works from several aspects, to name a few; whether Turkey is a ‘European’ country, if the ‘open-ended negotiations’ will ever come to a result, if Turkey truly fulfills the Copenhagen Political Criteria or if it has the ability to compete with the market pressures coming from the Union. However, ‘Europeanization’ in Justice and Home Affairs (JHA) policies receive relatively scant attention, particularly asylum policy, border control or police cooperation seem to be rather muted areas if works of less than hand full of scholars such as Kemal Kirişçi, are ignored. Contrary to European public opinion, asylum seekers and illegal immigrants rarely receive the attention of general public in Turkey. Thus, it is possible to claim that the issue is not ‘securitized’ in Turkey, as yet at least (Danış, 2004). In that sense, harmonization in JHA is being governed as a ‘technical’ issue run by Turkish and European bureaucrats aiming to transform the norms and way of doing business in the country. However, JHA policies, as already discussed in previous chapters, are closely linked with highly political issues such as defining the meaning and limits of ‘freedom, security and justice’.

On the other hand, EU membership is generally a black or white issue in Turkey. The general perception about the EU in certain circles is that the EU acts as a liberalizing catalysts for countries like Turkey, or on the opposite side of the pendulum, the EU is depicted as a neo-colonial project of old European empires.

However, both arguments and perspectives miss the complicated inclusionary and exclusionary processes of the EU, particularly when it comes to JHA policies and security governmentality<sup>7</sup>. As already discussed in previous chapters the EU has been developing a sophisticated border management system that encompasses border control, migration, asylum and visa policies. Indeed, this system foresees the incorporation of neighboring and third countries into it. Turkey, with its geographical location, plays a crucial role in the transit of migrants and asylum seekers as well as transportation of goods from the east to Europe. Moreover, Turkey's prospective EU membership creates a situation where the furthest eastern borders of the EU shall become the eastern borders of Turkey in the coming decades. No matter if Turkey becomes a member or not, different ways and methods of transformation, interaction, inclusion and exclusion is taking place, which is worth scrutinizing.

Immigration, as already discussed in previous chapters has at least for the last three decades become an issue that occupies central place in European politics and Turkey has been one way or another closely linked to this discussions. The established image of Turkey in Europe has been a country of emigration since 1950s, with the 1980s it was started to be known through (generally Kurdish) asylum seekers trying to flee from Turkey and in 1990s it is recognized as a main transit country, where illegal immigration movements, particularly from east to Europe runs through (Kirişçi, 2004). On the other hand, often times 72 million population of Turkey is represented as a major concern for the EU if freedom of movement, which is one of the main freedoms of the Union, is granted to Turkey. There is a long historical framework to Turkey-EU relations. Thus, it is first necessary to review and contextualize the relations between Turkey and EU from a historical perspective.

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<sup>7</sup> I would like to thank to Prof. Michael Williams for raising this issue.

### **5.3 TURKEY-EU RELATIONS UP TO PRE-ACCESSION**

Relations between Turkey and the EU have a broader content and a longer history than the recent accession talks that started in 2005. Turkey's relations with the EU date back to 1959 when it first applied to the then European Economic Community (EEC) for associate membership. Following this, an Association Agreement or as more commonly known the Ankara Agreement was signed on 12 September 1963, providing a legal basis for the relations between the Community and Turkey. Since then Turkey has been trying to become a member of the EU (Birand, 2001; Çalış, 2006).

Ankara Agreement foresaw three stages of cooperation: preparatory, transition and the final stage. The first stage was between the days Ankara Agreement came into force which was in 1 December 1964 and concluded on 1 January 1973 when the Additional Protocol came into force. The transition stage lasted 22 years, till the Customs Union was materialized on 31 December 1995. In line with the general liberal spirit of the EEC, Ankara Agreement and the Additional Protocol foresaw the gradual granting of the four main freedoms which are; free movement of goods, persons, services and capital in the EC-Turkey economic integration process (Dartan and Hatipoğlu, 2006:2). The year 1996 was an important one for Turkey-EU economic relations as the Customs Union was fulfilled, which allowed any industrial product to travel freely, without facing any customs duties or tax, from European to Turkish markets and vice versa. Moreover, Ankara Agreement adopted a longer perspective that hints at a prospective full membership. In this context, the Article 28<sup>th</sup> of the Ankara Agreement read as follows;

As soon as the operation of this Agreement has advanced far enough to justify envisaging full acceptance by Turkey of the obligations arising out of the Treaty establishing the Community, the Contracting Parties shall examine the possibility of the accession of Turkey to the Community (Ankara Agreement, quoted in Dartan and Hatipoğlu, 2006:3).

This half-century long relationship has been full of ups and downs. However, there are several crucial turning points. One of them was in 14 April 1987 when the then Turkish government applied for full membership to the European Community (EC). It took more than a decade after that for Turkey to be declared as a candidate country for membership.

On the other hand, the end of the Cold War following the collapse of the USSR created the opportunity for Central and Eastern European Countries (CEEC) to 'return to Europe' which is already discussed in previous chapters. EU enlargement was seen as a major instrument for the stable transformation of this region, already discussed in the previous chapter. In the year 1997 the European Commission prepared the 'Agenda 2000' that discussed the issues regarding prospective enlargement strategy, in which Turkey was not included (Dartan and Hatipoğlu, 2006:4). At the end of the same year in December 1997 European Council met in Luxembourg to which Turkish government did not attend. Following the disappointment in 1997 Luxembourg Summit, while several CEECs were officially welcomed as candidate countries, Turkey had to wait for the next round. Following a decision to freeze its relations with the EU, Turkey could only be officially declared as a candidate country in 1999, during the Helsinki Summit. The Helsinki Summit Conclusions read as follows:

Turkey is a candidate State destined to join the Union on the basis of the same criteria as applied to other candidate states. Building on the existing European Strategy, Turkey, like other candidate states, will benefit from a pre-accession strategy to stimulate and support its reforms (Helsinki Summit Conclusions, quoted in Dartan and Hatipoğlu, 2006:4).

European Commission before Helsinki, prepared a *European Strategy for Turkey* (COM(1998) 124 final). In line with this decision, since 1998 the European Commission included Turkey among the countries about whom it prepared annual progress reports which is a crucial instrument for naming and shaming the country that fall behind in making necessary changes. It is a key disciplining method adopted by the Union. And again in line with the Helsinki European Council

Conclusions, European Commission drafted an ‘Accession Partnership Document’ (APD) for Turkey which lists the tasks to be fulfilled by the country in the short and medium term. This was adopted by the Council on 8 March 2001. Copenhagen Political Criteria was the major task for Turkey that was listed in this document along with economic criteria and structural reforms and incorporating the *acquis*. In return for this APD, Turkish government adopted a National Programme for the Adoption of the *Acquis* (NPAA). Following this, European Commission prepared a ‘Revised Accession Partnership Document’ in the year 2003. In accordance with this the NPAA was also revised in 2003 (Dartan and Hatipoğlu, 2006: 4-5). Till 2010, in total the Union prepared, four APDs in the years 2001, 2003, 2003 and 2008. And in return Turkey adopted three NPAA’s in the years 2001, 2003 and 2008<sup>8</sup>. They will be reviewed in detail in the following pages with a focus on JHA issues. Thus, the Union has developed several instruments to scrutinize the practices in the country, criticize legislation and faulty practices, which creates a discursual interaction with national authorities.

For long years, this discursual area was dominated by the political criteria as it is the *sine qua non* of membership. Every year, Progress Reports published by the European Commission scrutinized Turkey’s success in achieving progress in different fields. At the Copenhagen Summit held in December 2002, European Council, parallel to the recommendations of the Commission

[...] encourage[d] Turkey to pursue energetically its reform process. If the European Council in December 2004, on the basis of a report and recommendation from the Commission decides that Turkey fulfils the Copenhagen political criteria, the European Union will open accession negotiations with Turkey without delay (European Council Summit Conclusions quoted in Dartan and Hatipoğlu, 2006:6).

The Progress Report of 2003 was accompanied by a Strategy Paper that confirmed the decidedness of the Commission to review the progress achieved by Turkey on

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<sup>8</sup> All these documents are available online on the webpage of Turkish Secretariat General for EU Affairs, <http://www.abgs.gov.tr/index.php?p=194&l=2>

political criteria and as a result of this, prepare a report and a recommendation for the Council to state if Turkey fulfils its obligations to open accession talks or not. The European Council during its Brussels Summit in June 2004 also declared its commitment to open accession talks with Turkey in case of a positive report from the Commission (Dartan and Hatipoğlu, 2006:6). The Commission's long expected report published on 6 October 2004 and it advised the European Council to open accession negotiations with Turkey as it has managed to fulfil Copenhagen Political Criteria 'satisfactorily'. The Helsinki Summit of the European Council took the advice of the Commission and decided to open accession talks with Turkey "without delay and without any discrimination". Indeed, the European Council agreed, following some lengthy discussions, on 3 October 2005 to open accession talks with Turkey (Kirişçi, 2007: 1).

#### **5.4 POLITICAL CRITERIA: 'CIVILIZING' TURKEY**

Before the eastern enlargement the EU specified in 1993 the political criteria to be satisfied by any applicant country. They can be summarized as stability of institutions guaranteeing democracy, the rule of law, human rights, respect for and protection of minorities. The political criteria for membership have been already mentioned in the previous chapter.

Improving Turkey's human rights standards and democracy might not seem relevant with migration or borders at first sight. However, there is a close link between asylum and human rights or democracy. Turkey has been sending asylum seekers to Europe mostly of Kurdish background and it was creating a certain image about the country in European public opinions. However, when the EU acknowledges that Turkey fulfils political criteria, many of the European countries also declared Turkey as a safe country of asylum. In practice this means that any asylum seeker from Turkey who intends to seek asylum in a European country shall be sent back to Turkey as s/he would be deemed to be free from oppression. Again in practice, as the situation within the country improves there

would be less asylum seekers trying to flee to Europe or other parts of the world. The same applies to any immigrant or asylum seeker who is not a Turkish citizen, but pass through Turkish territories before entering the EU shall be returned back to Turkey if Turkey agrees so by signing a readmission agreement. Indeed, signing a readmission agreement is a pre-condition to open accession talks on Chapter 24, which will be discussed further below.

## **5.5 MEMBERSHIP NEGOTIATIONS: HARMONIZING TURKEY'S POLICIES**

October 2005 decision to open accession talks carried the relations between Turkey and the EU to another phase. Despite the bitter talks in previous months imprinted mostly by an exclusionary discourse, the EU adopted a Negotiation Framework for Turkey in October 2005. This document described the rules and procedures of negotiations. Similar to previous rounds, the idea of membership talks was built on three main pillars; to reach the maturity in political level, to adopt the existing European legislations, harmonize national laws and practices accordingly by setting up necessary institutional infrastructure and to be able to cope with the free market and its forces in Europe, ie to have a strong and stable economy (Schimmelfening and Sedelmeier, 2004).

The initial criteria to open accession talks; as was the case for other candidates, have been to satisfy Copenhagen Political Criteria. It constitutes the basis for furthering negotiations on economic criteria and adoption of the EU legislation which is comprised of founding treaties, following amendments, accession documents of recent members and all legislation produced by the institutions of the EU. Accession negotiations are a process where the candidate country, in this case Turkey, is decided within how long time can adopt the EU legislation and implement it effectively. The word negotiation, therefore, can be misleading in this regard. There is no actual bargaining or negotiation, the process foresees an EU that has decided on what the candidate country should do and the remaining role for the candidate country is to plan the timeframe within which it will

transform its legislation and assume EU legislation (Schimmelfenning, 2006: 218).

EU legislation is as massive as 120,000 pages (Keridis and Arvanitapoulous, 2011). To organize the actual membership talks this voluminous legislation is categorised. Similar to previous enlargements, the *acquis* was categorised under certain number of chapters for Turkey as well, which was 35. In all these chapters the starting situation would be evaluated through screening process which is an important component of accession talks. During this process the photo of the legislation of the candidate country is taken and then compared with the EU *acquis*. Screening is comprised of two stages; explanatory and detailed. For Turkey, screening started on 20 September 2005 and came to an end on 13 October 2006 (Secretariat General for EU Affairs, 2010). The main question that came up during these meetings was if Turkey is ready to adopt the legislation in the relevant chapter, has relevant laws been enacted, if not what kind of a calendar is envisaged, does the necessary institutional infrastructure to realize these exist, if not when will they be set up, will Turkey ask for transitory periods?

Following screening of each chapter European Commission presents a report to member countries. This constitutes the basis for opening or setting up benchmarks for that chapter. The modalities of the actual negotiations are formulated in Negotiation Framework Document. According to this, Council of Ministers decides which chapters will be opened and it is declared at the Intergovernmental Conference. In return, Turkey is asked by the Council to prepare its negotiation position papers. Method for preparing these position papers changes from country to country. In Turkey the final institution to submit Turkey's position is the Cabinet (Secretariat General for EU Affairs, 2010).

In this document, Turkey, states its position in this specific chapter, defines the calendar it plans to adopt the *acquis*, states the financial requirements for harmonization, and if necessary states the transitory period required. In return, the

Commission prepares EU draft position paper and submits it to the European Council. The Council decides on the document with unanimity and presents this back to Turkey which means the start of accession talks in this specific chapter.

The official platform for negotiations is the Intergovernmental Conference where the EU and Turkish Foreign Ministers come together. Main decision, such as the chapters of the *acquis* to be negotiated or finalizing the negotiations, would be declared here rather than the actual screening and negotiations. Decisions are taken with unanimity. Whereas the actual negotiations take place among permanent representatives of European states in Brussels and Turkey's chief negotiator and his team. Several interactions, official and unofficial, takes place between these groups.

A crucial source of power for the EU, during this process has been its financial instruments through which it provides technical aid to third countries or candidate countries. Turkey has not been an exception in benefiting from these funds. Financial relations between Turkey and the EU can be divided to four periods. First one is between 1963 to 1980 that can be named as financial protocols era. The second one is between 1996 to 2001, where Turkey was still considered as a third country and was incorporated into the MEDA programme. The third term was between 2002 to 2006, where she benefitted from pre-accession financial instruments and finally the term of 2007-2013 where the EU adopted a new instrument for acceding countries called the Instrument for Pre-Accession (IPA) (Ozcan, 2010; European Commission, 2009: 10). IPA consists of five components, which are; institution building, regional and cross-border cooperation, regional development, human resources and rural development (European Commission, 2007: 3). Here the first component of IPA plays a crucial role in re-designing and re-structuring government institutions according to the plans of the EU, to make them capable of implementing the EU legislation in their field.

Turkey still benefits from mainly three main financial instruments: pre-accession grants, Community programmes and loans of European Investment Bank. The numbers of aid has been increasing to an important extent since 2002 (European Commission, 2009). Between the years 2002-2006 one third of the financial aid has been devoted to *acquis* harmonization, the remaining one thirds were used for economic and social harmonization and technical aid for institutionalization (European Commission, 2007). Multi Annual Indicative Planning Documents prepared by the European Commission presents all the relevant statistics and data in this field. As clear, accession process is a highly technical process requiring intensive interaction between Turkish and European bureaucrats. This applies to various layers of bureaucracy including the security agents in charge of borders, migration and asylum.

## **5.6 BORDER MANAGEMENT IN TURKEY**

Having reviewed the accession process, it is now necessary to dig deeper into theory, practice and change taking place in the field of border management for Turkey. Before discussing the expectations of the EU regarding transformation, it is necessary to define the situation before the influence of the EU.

### **5.6.1. TURKISH BORDER MANAGEMENT AND MIGRATION DISPOSITIF BEFORE PRE-ACCESSION**

As the heir of Ottoman Empire which was a mutli-lingual and multi-ethnic state population movements are nothing new for Turkey. The experiences of the Empire inevitably left imprints on the approach of the new Turkish Republic towards borders and population movements and there is some sort of continuity in policies in this regard (Kirişçi, 2000).

### **5.6.1.1 INFLUENCE OF OTTOMAN EMPIRE ON MIGRATION POLICY**

Although Turkey has been generally portrayed as a country of immigration, it has been a country of emigration and a host country for asylum seekers as well (Kirişçi, 2007). Being the historical heir of the Ottoman Empire, it has encountered with various population movements in history. As a multi-ethnic and multi-religious state, a specific migration policy of the Ottoman Empire existed. The main of it was making sure the continuity of agricultural production and tax generation as the major income of the state (Özbilgen, 2003: 357). In the early years of the Empire, systematic migration and settlement policies were in place, particularly towards the newly conquered lands. Sometimes, forced movement of people was an instrument to solidify power in these places. During the expansion times settlement policies encouraged moving to newly conquered lands. However, when the expansion of the Empire was reversed, immigration flows started to run reverse as well. Historically, before the last century of the Ottoman Empire when the Empire started to lose its territory, it hosted several non-Muslim groups as well, such as the Jews fleeing Spain in 1492 (Akgündüz, 1998: 98). Also in the 19<sup>th</sup> century, Russian conquest of Crimea and in the following times in Caucasus resulted in mass movements of Tatars and Circassian even reaching to 1.8 million people (Akgündüz, 1998).

In the 19<sup>th</sup> century with the dissolution of Empire as a result of the rise of nationalism, Ottoman Empire received huge numbers of migrants. A crucial denominator of identity in this process was religion. Muslims in the newly formed nation-states in Balkans were seen as a threat to the integrity of the states due to the possibility of their loyalty to the Ottomans rather than the country they live in. Thus, many were uprooted. Akgündüz states that “[...]from 1783 to 1913 some 5-7 million Muslims immigrated into the Ottoman lands. Some of these were, in fact, the Sultan`s subjects coming from lost territories, but at least 3.8 million of the total were former subjects of the Russian Tzar” (Akgündüz, 1998: 100).

This flow of immigration resulted in establishing an institutional structure to deal with these population movements. Regarding legal infrastructure Ottoman Empire declared itself on 9 March 1857 as an immigration country and adopted an Immigration Code (*Muhacirin Kanunnamesi*) (Akgündüz, 1998: 101). The Code defined who shall migrate to Ottoman territories and was a quite liberal one, according to which “[...]Ottoman state was open to those who were willing to become the Sultan`s subjects, accept the country`s law, had a minimum capital of 60 mecrediye...per family, and no criminal records” (Akgündüz, 1998: 101). It is worth noting the condition to have certain amount of money. Also, regarding the forced migrants and refugees on 5 January 1860 a Refugee Commission was set up (Kale, 2005: 191). This Commission was given the task to deal with helping refugees. All these population movements and loss of territory made a mark on the mindset of the new republic to be founded after the decline of the Ottoman Empire. The notion of borders of an empire being quite penetrable, were transformed in time to a more strict demarcation which somehow overlaps with homogenous nationalities occupying the territory.

#### **5.6.1. 2 IMMIGRATION POLICY OF THE NEW REPUBLIC**

Not only the mindset of the new republican elite was influenced by the Ottoman experience, but also the political agenda was formulated accordingly. As the multi-ethnic empire disintegrated, the new republic was planned to be an ethnically homogenous one, which led to several population movements. Balkan Wars, First World War and War of Independence all caused massive migrations, thus there was a continuity in terms of population movements between Ottoman Empire to Turkey. However, Kemal Kirişçi argues that Ottoman Empire and Turkish Republic adopted different policies: “Unlike the Ottoman Empire, Turkey has in public emphasised Turkish language and ethnic affiliation in respect to its immigration policies and remained silent in respect to religion” (Kirişçi, 2000: 4). Though Kirişçi claims that Turkey adopted a more ethnicity oriented migration policy, the definition of ethnicity was still quite linked to religion. As one of the major concerns of the founders of the new republic was to get rid of the heritage

of the empire by setting up a homogenous nation, immigration policies were used as instruments to achieve this goal. People with Turkish descent, yet who are also Muslims were welcomed, even were given exclusive priority. Albanians, Bosnians, Pomaks, Tatars and Circasians were all included in this category. The notion of setting up of a homogenous state was also a concern of some of the Ottoman elite towards the end of the Empire mostly the Committee of Union and Progress members (Kale, 2005: 192). This was furthered by the elite of the new republic.

During the initial periods of Turkey, mostly state-caused population movements took place, the biggest of which was the population exchange between Greece and Turkey in 1923. This was the particular event where huge numbers of population movement, took place and it was built on the Lausanne Treaty. The Treaty defined the terms for exchange which was built on faith rather than ethnicity. Flows from the Balkans continued in the following years. “Between 1923 and 1960, 1,276,925 migrants settled in Turkey, about 98 percent of whom were from the Balkans” (Akgündüz, 1998: 111-112). Major causes of these movements were instability, discrimination in home countries and close cultural ties with Turkey.

On the other hand, till 1960s except two cases economic migration was an alien notion for Turkey. These two cases were

the migration of high-level professionals, the so-called brain drain, to advanced industrialized countries beginning in the second half of the 1950s...and second, the migration of Turkish Jews to Israel between 1948 and 1950, although in this case the role of economic factors is debatable (Akgündüz, 1998: 111).

The initial piece of regulation adopted by Turkey for governing immigration, the Law of Settlement No 885, was issued in 31 May 1926. It constituted the only legal framework for migration issues. A defining characteristic of the new law was the emphasis on “Turkishness” to be accepted as a legitimate immigrant (Kirişçi, 2000). The 1926 law was replaced with a new law adopted in 1934. This

law, numbered 2510, also followed a similar suit in defining who shall be admitted as immigrant. Again a clear reference to Turkish descent and culture was made. The right to decide who is included in this group was given to the Council of Ministers. The nationalist stress did not change the practice, again Muslim groups were given priority. Refugee status was defined in the law as a temporary state. The Passport Law gave the right to admit these people into the country and to decide on the places they shall settle, to the Ministry of Interior (Akgündüz, 1998: 112).

On the other hand, regarding the issue of asylum a crucial turning point has been the adoption of 1951 Convention Relating to the Status of Refugees. This Convention became the first legal text that specified the rules for applying for asylum, rather than immigration. Before that, the situation of refugees was touched upon in the Settlement Law, according to which only individuals of `Turkish descent and culture` could be granted asylum. Having said that, especially during the Second World War and in the aftermath several Jews used Turkey as a transit to reach to Israel. "However, it was not the practice of the Turkish government to grant these people full refugee status, let alone citizenship" (Kirişçi, 2000: 10).

The timing of the 1951 Convention coincided with an important structural change in international society. The bipolar world order was emerging, where on the one hand capitalist ideology of the US and the socialist ideology of the USSR on the other, were competing with each other to establish their spheres of influence. The 1951 Convention was a product of this ideologically divided atmosphere. Turkey, in such an atmosphere, chose to side with the West that was manifested by joining Western organizations such as NATO and the UN, which shaped its foreign policy actions for almost half a century. 1951 Convention was a product of the UN system and Turkey was among the drafters and original signatories. Initially the Convention was decided to be applicable just for the incidents related to the Second World War, i.e. before 1951. Thus it was accepted with limitations

regarding geography and time. Article 1A (2) of the Convention defined refugees as any person who,

[a]s a result of events occurring before 1 January 1951 and owing to wellfounded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it (UN Convention, 1951: 16).

However, later on time and geographical limitations were abolished with a Protocol adopted in 1967 at New York. Yet, Turkey though dismissed the time limitation, kept the geographical limitation intact. In practice it meant providing the refugee status only to people coming from European countries. For the people coming from the East and who would be eligible for asylum, Turkey provided protection until they would be settled into a third country. This way, Turkey is not breaching the non-refoulement principle which is the basis of the international asylum regime, however, it benefits from the advantage that the costs for hosting these people would be covered mostly by international agencies such as the International Catholic Migration Commission and the UNHCR (Kirişçi, 2000).

Main influxes of refugees and immigrants took place during 1950s and in late 1980s from Bulgaria. Also during various times of the Cold War, refugees from several countries were admitted. However, with 1970s, similar to the rest of Europe, Turkey started to experience flows from the East (Kirişçi, 2000). An important incident was the Islamic Revolution that took place in Iran in 1979 which made many to flee from the country via Turkey. Large number of Iranians, even according to some estimate numbers reaching to millions escaped via Turkey (OMID Advocates for Human Rights, 2010). Liberal visa policy of Turkey towards Iranians, as well as cultural and geographical affinity was a crucial factor in this. Mostly they were settled in third countries, whereas few were able to stay in Turkey with a residence permit. Iran still constitutes a major country of origin

for asylum seekers in view of its bad record in human rights and oppression. Indeed, Turkey is also a crucial route of exit for many of these refugees and the EU's expectations from Turkey regarding harmonization bears important potential to make life more difficult for these Iranians. This will be discussed below further when mentioning the visa policy of the EU and Turkish harmonisation. During this period, similarly several people fled from Caucasus and Central Asia. Particularly Chechen fighters seeking asylum in Turkey had faced difficulties and still do. Although they are deemed coming from Europe thus eligible to apply for asylum many of them suffer from remaining in limbo, not receiving a clear reply regarding their status.<sup>9</sup>

With 1980s parallel to the changing international environment Turkey started to receive increasing numbers of asylum seekers from its own neighbours and close neighbourhood. (Kirişçi, 2000: 11-12). "From 1970 to 1991, when the Cold War ended with the collapse of the Soviet Union, 8,143 person had applied for asylum or refugee status in Turkey according to government statistics" (Kirişçi, 2000:11). The numbers increased in the coming years; between the years 1995 and January 2008 around 50,000 people applied for asylum. "The overwhelming majority of them are recognized as asylum seekers. Almost 9,000 applications were rejected. In addition to that figure nearly 2,500 people lost their status: mostly by withdrawing their applications" (Kaya, 2009: 2).

As a result of the unrest in Turkey's neighbour Iraq, Turkey faced with massive flows in 1988 and in 1991. Particularly the year 1988 was a crucial moment for Turkey as a major refugee creating incident took place in Iraq when the then head of state Saddam Hussein suppressed Kurdish population, triggering movements towards Turkey. Moreover, when the US attacked Iraq during the first Gulf War in 1991, again Kurdish population fled to Turkey in huge numbers trying to escape the oppressive regime of Saddam. However, refugees amounting almost a million made Turkey face with troubled times in receiving and accommodating

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<sup>9</sup> Mentioned during the interview with UNHCR Turkey Office, 23.12.2010.

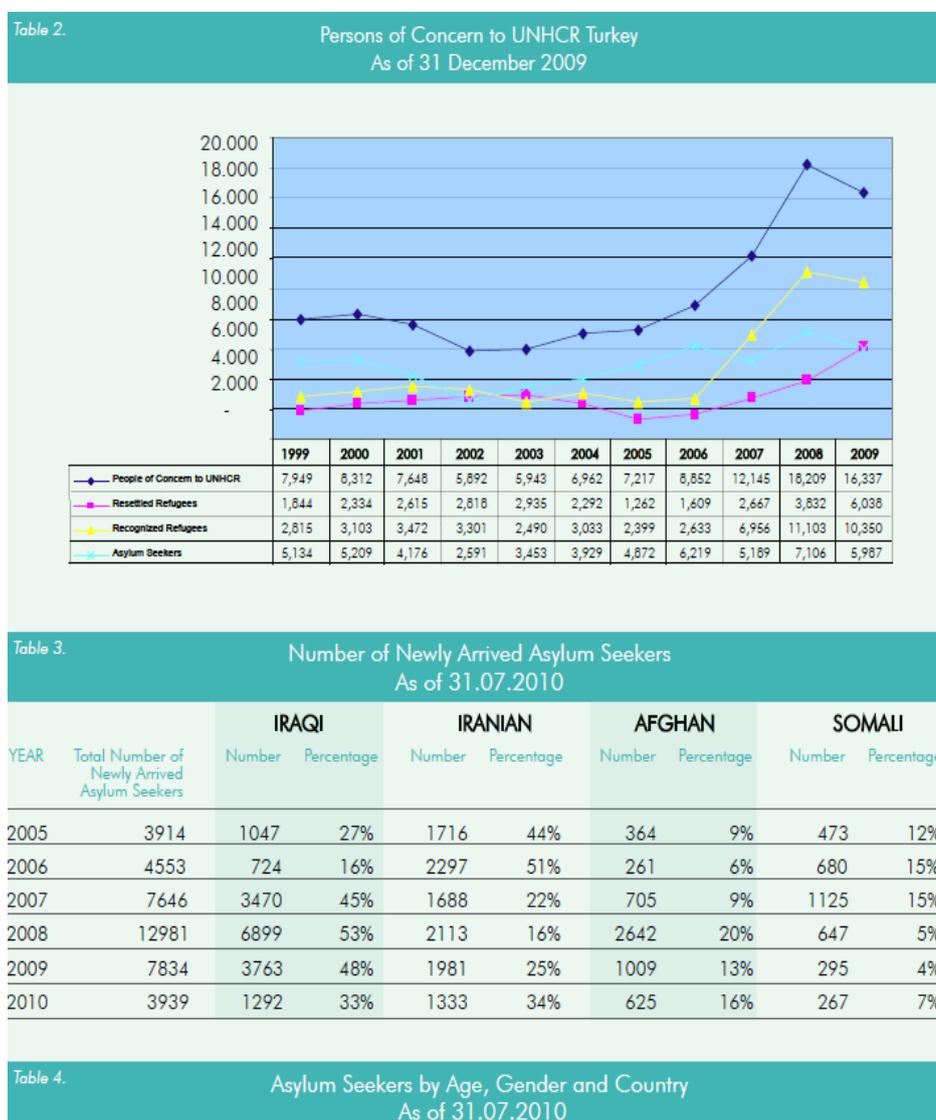
these people. Turkey's own internal insecurities regarding Kurds made it even worse (Kirişçi, 2000: 12-13). The situation created by the Gulf War coupled with the end of the Cold War made Turkish decision makers face bluntly with the changing international atmosphere and the volatile surrounding of the country.

In the post-Cold War era, as the conflict zones and the composition of conflicts changed Turkey needed to adjust its policies. Differing from the Cold War period, during the post-Cold War era conflicts were more intra-state in nature rather than between two or more separate states. The atrocities in Balkans, in Bosnia Herzegovina and later in Kosovo are examples, from both of which several asylum seekers were welcomed by Turkey. Similarly internal war in Afghanistan followed by US invasion and also the invasion of Iraq created constant refugee flows from the east of Turkey. Economic migrants aggravated the situation. Thus, the changing international situation and the increase in the numbers of immigrants particularly from Iraq made Turkish authorities take further measures. The "Bylaw on the Procedures and the Principles Related to Mass Influx and Foreigners Arriving in Turkey either as Individuals or in Groups Wishing to Seek Asylum from a Third Country" that was adopted in 1994 was a measure taken in this context. This 1994 Bylaw sustained the clear difference between a European asylum-seeker to a non-European one. It was, for several reasons, criticized by human right groups. It has been amended twice one in 1999 and one more recently in 2006 which partly rectified the reasons of criticism.

According to 1994 Bylaw when a foreign national applies for asylum in Turkey through the governorate of the city s/he resides in, first of all archive enquiry and security investigation is being conducted by the Ministry of Interior (MOI), in the meantime registration-interview forms are sent to the Ministry of Foreign Affairs as well as other relevant authorities. While the decision making process continues the person is allowed to stay in the places they lodge in their application if they entered the country through legal means. If the person entered Turkey through illegal ways they are expected to lodge in their application in the first city they

enter the country and authorities would decide about their temporary settlement place. When a person applies to Turkish authorities, a dual process would start and Turkish authorities would inform the UNHCR about the applicants coming from outside of Europe (Kaya, 2009). Then UNHCR officials conduct interview to decide on the status of the person. Below chart provides some figures on the work of UNHCR according to which in 2009 the number reaches to 16,000 people.

Table 5.1 Persons of Concern to UNHCR Turkey



Source: (UNHCR, 2010: 12)

In this dual structure, UNHCR is also directly involved in decision making process. All related information and decisions is shared with it, also cooperation is sought when necessary about issues related to accommodation, transfers, admission to third countries and the like.

On the other hand negative asylum decisions are notified to the applicants in writing. The applicant has the right to appeal to this decision in 15 days to the responsible governorate and the Ministry of Interior (Ministry of Interior, 1994). If the person does not go to appeal, he would be expected to leave the country within 15 days or else he would be deported.

In the existing legal infrastructure there is no single law that covers asylum and migration issues. They are spread to several laws, such as Passport Law, the Law on Residence and Travel of Foreigners and the 1994 Council of Ministers Regulation (Kaya, 2009: 3-4). Besides these, there is also a circular adopted in 1983, numbered 18032 regarding the places to host asylum seekers and refugees. According to this legislation, places to host asylum seekers would be established in certain cities as a result of the proposal of the police and the approved of the MOI. There are two types of places categorized as A and B according to the number of people they can accommodate. Both would have the facilities of dining hall, laundry, reading and common rooms. People can only be accepted to these places through the approval of the Ministry of Interior and asylum seekers would need permission to leave. Asylum seekers accepted to these places would receive a document certifying their legal status as a person whose asylum is being considered, numbers of which would be sent to the police headquarters (Ministry of Interior, 1983). Also a more recent circular was distributed in March 2010 about the accommodation facilities and fees applied to asylum seekers. There is also an implementation circular prepared by the Ministry of Interior on 22 June 2006 to define the procedures for implementing the rights and obligations of

asylum seekers and refugees. Some of the existing Turkish Law related to migration and asylum before the EU influence was as follows:

- Settlement Law No. 34/2510 of 14 June 1934
- Law No 41/4104 of 11 August 1941 on Combatant Member of Foreign Armies Seeking Asylum in Turkey
- Law No 50/5683 of 15 July 1950 on Residence and travel of Aliens in Turkey as amended by the Law No 98/4360 of 1998
- Passport Law No 5682 of 15 July 1950
- Turkish Citizenship Act No 64/403 of 11 February 1964 as amended by Law No 2383 of 12 February 1981 and Law No 4866 of 4 June 2003
- Regulation No 94/6169 of 30 November 1994
- Regulation No 7473 of 7 November 1995 on Combatant members of Foreign Armies Seeking Asylum in Turkey
- Law No 4817 of 27 February 2003 on Work Permits of Aliens
- Turkish Penal Code
- Labour Law No 1475 (Art 85 and 105)
- Law No 4028 of 13/11/1996 on the Prevention of Money Laundering
- Law No 4422 on Combat Against Interest-Oriented Criminal Organizations
- Penal Execution Law
- Law No 2922 of 1983 on Foreign Students Studying in Turkey (Kaya, 2009: 3-4)

This is not an exhaustive list. There exist several other implementation directives and decrees in practice. As clear, legal rights and obligations about legal and illegal immigrants are distributed among various codes, rather than a separate aliens law. In practice situation of asylum seekers varies around the country as the legislation provides important right of discretion to the local police and governorate.

Another crucial issue is the border code defining the border control measures within the country. Border security is among the major duties of nation states and Turkey is no exception. However, there exist again a dispersed structure regarding

border management and border security in Turkey. Several institutions involved in this process. In the border gates MOI and police is in charge. Regarding transportation of goods Prime Ministry and Undersecretariat of Customs are in charge. On the other hand, on the remaining parts of borders without any border crossings or custom gates, Land Forces and Gendarmerie has the responsibility. And finally, as Turkey is a peninsula covered with sea on three sides, the Border Guards are inevitably in charge (National Action Plan, 2006). Several issues regarding border management have been criticized by the EU both through progress reports and accession partnership documents. The method first to diagnose, then define the way to rectify these was generally through twinning projects where Turkish authorities were brought together with their European partners who shall be picked up as best practices and are ready to share them with their Turkish counterparts. A liberal method of learning has been at work in these twinning projects which will further be discussed in the following section.

To sum up, it is possible to claim that asylum and immigration system of Turkey was mainly build on national settlement laws and international law based on 1951 Geneva Convention and the 1967 Protocol. However, there has been as Kemal Kirişçi correctly names “a two-tiered” asylum system in Turkey. People coming from the west of Turkey who are eligible for refugee status and the rest who can seek for protection and can be given right to stay until their application is evaluated by the UNHCR office in Turkey. As for non-convention refugees, that is, people coming from the countries to the east of Turkey, UNHCR plays a crucial role. Until 1994 Regulation there was an implicit agreement that Turkey would shelter these asylum seekers till their application is decided by the UNHCR. If their application is found grounded they would be allowed to stay till re-settled to a third country by the UNHCR and if not they would be deported by Turkish authorities. During this process, some of them who understand that they would be deported would go underground within the country with the aim to break into Europe. These incidents as well as national security concerns of

Turkish authorities created the background for adopting 1994 Regulation (Kirişçi, 2000: 12).

## **5.6.2 EU ACCESSION PROCESS AND TRANSFORMATION: MEMBERSHIP NEGOTIATIONS ON CHAPTER 24**

### **5.6.2.1 MAJOR DOCUMENTS AND EXPECTATIONS OF THE EU FROM TURKEY**

After describing the existing border dispositive in Turkey, now the expectations of the EU from Turkey can be scrutinized. As already mentioned, accession talks with Turkey were decided to be furthered under 35 chapters, 24<sup>th</sup> of which is titled Justice, Freedom and Security that encompasses the issues on border management, visa, asylum and migration. The *acquis* under this chapter is an outcome of the Union's policies on internal security covering migration, asylum, combating illegal immigration, human trafficking and visa matters. This also covers the external dimension of migration policy developed to incorporate third countries and the periphery of the Union for migration control, which has been discussed in the previous chapters. In this context, what does the EU want from Turkey regarding the area of freedom, justice and security? The answer is simple: to control its border more effectively particularly in preventing illegal immigrants passing to the EU via Turkey, accept asylum seekers from all around the world; treat them with certain standards, harmonize its legislation and practices with that of EU's and cooperate with European institutions. Realizing all these would mean becoming an instrumental part of the European ban-opticon, helping Europe stop asylum-seekers and illegal immigrants before reaching the borders of Europe and return back at the nearest possible entry point. To achieve these, several themes keeps recurring during accession talks.

Several documents discussed what Turkey should do and achieve in this process. As already mentioned, European Commission has been preparing regular progress reports annually for Turkey since 1998 and they have been main instruments

analysing the existing situation in the country and criticizing the deficiencies. After Turkey was declared as a candidate country in 1999, the conclusions of Helsinki Council stated that Turkey will benefit from a pre-accession strategy that will support and promote the reforms. A crucial component of this strategy was the Accession Partnership Document (APD) first of which was prepared in 2001. European Council decided during 1997 Luxembourg summit that APD is one of the main components of pre-accession strategy especially in the sense of bringing all the aid under one, however tailor-made heading for each candidate (Erdemir, 2005). In this context, APD aims to specify main principles of accession, short and medium term priorities, targets, conditions and actions to be taken to adopt the EU acquis in various fields. It was based on the findings of the previous year's Progress Report prepared by the European Commission. Under the short term goals of the 2001 APD for the field of Justice, Freedom and Security, Turkey was expected to first develop information and awareness programmes on the legislation and practices of the EU in this area, then to enhance the fight against organized crime, drug trafficking and corruption. Whereas for the medium term a more detailed plan, which included the following, was presented:

- Develop training programmes on Community law and on the implementation of the JHA acquis.
- Further develop and strengthen JHA institutions with a view in particular to ensuring the accountability of the police.
- Adopt the EU acquis in the field of data protection so as to be able to fully participate in the Schengen information system and in Europol.
- Start alignment of visa legislation and practice with those of the EU.
- Adopt and implement the EU acquis and practices on migration (admission, readmission, expulsion) so as to prevent illegal migrations.
- Continue strengthening border management and prepare for full implementation of the Schengen Convention.

- Lift the geographical reservation to the 1951 Geneva Convention in the field of asylum and develop accommodation facilities and social support for refugees.

- Adopt and implement the EU acquis in the field of corruption, fight against drugs, organised crime, money laundering and judicial cooperation in criminal and civil matters; further intensify international cooperation in those fields (Accession Partnership Document, 2001: 21-22).

These medium term goals constitute the fundamentals of harmonization in this area. The Union expects Turkey to first disseminate knowledge in this field through training programs that is to create an intellectual capacity before implementation, or in other words a mental transformation. Following this mental transformation and in parallel what is expected is to create the necessary infrastructural situation to cooperate and work together with EU institutions. For instance to participate to Schengen Information System and other databases Turkey needs to adopt certain data protection laws as well as to harmonize its IT infrastructure. Other topical issues are the visa policy and abolishing the geographical limitation to 1951 Convention.

In return for the APD adopted by the EU, Turkey was expected to adopt an NPAA defining the timeline and roadmap to make necessary amendments to harmonize its legislation and practices. The NPAA was adopted and published in the Official Gazette on 24 March 2001. Similar to APD it was structured according to subject matters as well as according to yearly planning, stating specifically the actions to be undertaken. Turkish authorities revealed great political activism during 2001 and 2002 by adopting several legislative packages mostly relevant to political criteria. Following this, APD was revised in 2003 and Turkish Government also revised its NPAA in the year 2003. The documents adopted in 2003, did not bring any fundamental change in the direction of policy; they were built on the findings of the Regular Progress Report in 2002. In the short term the following goals were re-stated in 2003:

- Reinforce the fight against illegal immigration, negotiate and conclude as soon as possible a readmission agreement with the European Community.
  
- Continue to strengthen the fight against organised crime, drugs, trafficking in persons, fraud, corruption, and money-laundering, particularly through legislative alignment, improved administrative capacity and enhanced cooperation between different law-enforcement bodies, in line with EU standards.
  
- Further develop and strengthen all relevant institutions, with a view in particular to ensuring the accountability of the police. Improve cooperation between all law enforcement institutions, including the judiciary.
  
- Improve the capacity of public administration to develop an effective border management, including the detection of forged and falsified documents, in line with the acquis and best practices with a view to preventing and combating illegal migration.
  
- Strengthen efforts to develop information and awareness programmes on the legislation and best practices in the European Union in the fields of justice and home affairs (Accession Partnership Document, 2003: 49-50).

For the short term in 2003 the aims were a bit more specified and just the priorities have been shift. And as for the medium term goals, the following were stated in the 2003 APD:

- Strengthen efforts to develop sustainable training programmes on the acquis and its implementation in the fields of JHA also with a view to increasing administrative capacity and improving inter-agency cooperation.
  
- Further develop the legal aid system to ensure that all citizens enjoy access to justice.
  
- Adopt the acquis in the field of data protection and exchange of personal data for law enforcement purposes and create the institutional capacity for its implementation including the creation of an independent supervisory authority so as to be able to fully participate in the Schengen information system and Europol.
  
- Pursue alignment of visa legislation and practice with the acquis.

- Adopt and implement the acquis and best practices on migration (admission, readmission, expulsion) with a view to preventing illegal immigration.
  
- Continue alignment with the acquis and best practices concerning border management so as to prepare for full implementation of the Schengen acquis.
  
- Start with the alignment of the acquis in the field of asylum including lifting the geographical reservation to the 1951 Geneva Convention; strengthen the system for hearing and determining applications for asylum; develop accommodation facilities and social support for asylum seekers and refugees.
  
- Adopt and implement the acquis in the fields of the criminal law protection of the euro and of the Community's financial interests, corruption, fight against drugs, organised crime, money-laundering and judicial cooperation in criminal and civil matters; further increase administrative capacity, cooperation between the different law enforcement bodies and intensify international cooperation in these fields.
  
- Develop and start to implement a national drug strategy in line with the EU drugs strategy and action plan (Accession Partnership Document, 2003: 54).

As clear there is no major change in the direction of policy from 2001 to 2003 document. However, in 2003 some of the issues such as signing a readmission agreement are stated much more explicitly, clarifying the priorities of the European side which does not always overlap with that of Turkey. Similar to the process in 2001, Turkey revised its National Programme in 2003 in line with the new Accession Partnership Document. Again Turkish Government committed itself in adopting the EU acquis and making necessary preparations. Here, the two crucial issues were lifting the geographical limitation to 1951 Convention and signing a readmission agreement with the EU. Regarding the geographical limitation Turkey stated the condition that the EU would commit itself to burden sharing and that necessary measures would be taken to protect Turkey from possible mass influxes of refugees. A timeline of 2012 was mentioned if these conditions would be satisfied. Similar issues and priorities were re-stated in 2006 and 2008 APDs.

When these major documents of the EU regarding Turkish harmonization are reviewed several issues keep repeating: increasing the capacity of bureaucracy in terms of implementing EU *acquis* and cooperating with EU agencies, abolishing the geographical limitation for 1951 Geneva Convention, setting up a civilian, professional authority for border control, increasing the capacity to accommodate illegal migrants and asylum seekers.

#### **5.6.2.2 HARMONIZATION IN ASYLUM AND ILLEGAL IMMIGRATION POLICIES: CHANGE ON THE GROUND**

An initial step taken in this field by Turkish authorities following the 2001 APD was to set up a special task force in which representatives of all relevant institutions in charge of border control, asylum and migration took part (Kirişçi, 2007: 9). The aim of the task force was to facilitate complying with the EU *acquis* in the field of Justice and Home Affairs. Moreover, three working groups were established under this task force on migration, asylum and border control, all three of which became operational on 18 June 2002. These working groups had the main goal to initiate legislative scrutiny and arrange for necessary work including study visits with respect to border protection, illegal migration, the Schengen visa regime and asylum. The European Union Delegation in Ankara also worked closely with these task forces. The biggest outputs of all the three were the succinct Strategy Paper's defining the outlines of Turkey's policy in the related areas. These were: "Strategy Paper on the Protection of External Borders in Turkey" prepared in April 2003, "Strategy Paper on Activities Foreseen in the Field of Asylum within the Process of Turkey's Accession to the European Union" prepared in October 2003 and "Strategy Paper to Contribute Migration Management Action Plan in Turkey" prepared again in October 2003 (Ministry of Interior, 2005: 7). Dr. Özlen Çelebi, one of the interviewees, was among the group who participated in the working group trying to define the migration strategy of Turkey. Çelebi both acknowledged the missing points in Turkey's practices and

appreciated the participatory nature of policy making in this field<sup>10</sup>. During the interview it was possible to observe the embedded suspicion on EU's migration and asylum policies and its possible effects on Turkey.

On the other hand, as part of harmonization efforts in May 2002, Turkey joined the Centre for Information, Discussion and Exchange on the Crossing of Frontiers and Immigration (CIREFI) early warning system and started information sharing with European countries. Indeed, two Turkish army officers were defined as contact point to make sure the constant flow of data to CIREFI. Also in the year 2002, two crucial legislative amendments took place which criminalized human trafficking and included it as a crime in the Turkish Penal Code (Progress Report, 2002: 104).

The European Council at several occasions stressed the importance of administrative system to implement changes in applying the *acquis*. To further the transformation in candidate countries the EU adopted a liberal instrument: financing of projects. This way, a 'project mentality' would be transferred to these countries, which requires rational planning in terms of goals, time and budgetary requirements. In various civil society and business related issues projects have been implemented which works as a massive 'training' and adoption process. As for state related institution building issues crucial tool for harmonization of the legislation and strengthening and reforming the administrative system has been twinning projects where a country constituting the 'best practice' example a European government institution functioning on the basis of efficiency and effectiveness would be brought together with Turkish authorities. There are several liberal tools and techniques at work here. For instance, the notion of twinning works in the form of teaching one party how to do better via exposing it to a 'best practice' example, showing the example of how to be better, how to perform better the duties of an institution and help itself improve its performance mostly by setting up benchmarks and performance criteria. This has been the case

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<sup>10</sup> Talk with Assist. Prof. Özlen Çelebi, Ankara, October 2008.

with Turkey. Although, Chapter 24 is inextricably linked with internal security issues, still bureaucrats in this field became socialized with European counterparts and went through a learning process.

The first twinning in Turkey took place in May 1998. Since then several projects were implemented on various areas. For instance in the year 2003 just on JHA issues 18 projects were prepared, ranging from increasing the capacity of police to strengthening the capacity to fight against human trafficking or money laundering. (Kirişçi, 2007: 8-9). This increasing interaction between European and Turkish bureaucrats also created new networks, which as Didier Bigo (2000, 2002) mentioned, enable the EU to manage and control from a distance.

Based on the strategy papers issued in 2003, proposals for various EU twinning projects were prepared. Several projects, initially geared towards providing education for and raising awareness among security professionals, have been realized during this process. In 1997 before the influence of the EU accession, “Project for Developing an Asylum System in Turkey” have been implemented with UNHCR, within the context of which various security professionals provided training. On 7 April 2003 a joint project of Turkish and German Ministries of Interior, “Supporting Turkish Authorities Responsible for Migration in the Field of Asylum”, was initiated. This was financed under the Iraqi Action Plan of the EU High Level Working Group. The main aim of the project was to align legal and institutional capacity of Turkish administration with that of European countries in the field of migration management. Again the major tool of the project was to provide trainings to Turkish staff. In this context, seminars, conferences and working programmes were organized to enable sharing knowledge and best practices between Turkish and German authorities (Progress Report, 2004; Kirişçi, 2007).

One other crucial twinning project was implemented by the MOI in cooperation with Denmark and the UK migration authorities. It was self-explanatorily called

“TR02-JH-03: Support for the Development of an Action Plan to Implement Turkey’s Asylum and Migration Strategy”. The project began on March 2004 and completed in 8 April 2005 (Ministry of Interior, 2005: 7). It was built on the strategy paper prepared by the task force in 2003. During the implementation of the project Turkish legal and physical infrastructure to implement the EU *acquis* was scrutinized. As a result of this, recommendations for a road map to implement the asylum and migration strategy of Turkey, was prepared. The project document specifically provided answers to the following questions: What is the institutional routine in Turkey regarding border management and asylum application, how does it differ from the EU and how does the EU wants to transform Turkish practices and routines? Indeed, the National Action Plan (NAP) on Asylum adopted on 25 March 2005 undersigned by the Prime Minister answered these (Ministry of Interior, 2005). The document foresaw crucial amendments to the legislation and practice regarding migrants and asylum seekers.

In this context, there are five crucial issues especially regarding the issue of asylum worth mentioning:

- 1- A new institutional authority to be established to deal with asylum and migration
- 2- Signing a readmission agreement with the EU
- 3- Abolishing the geographical limitation Turkey applies to the 1951 Geneva Convention
- 4- Providing effective procedures and legal support for asylum seekers and refugees
- 5- Improving the rights of refugees and asylum seekers (UPSAM, 2009).

Legislative amendments therefore constitutes a big part of transformation. However, it was planned to be supported by institutional changes as well. “In Turkey asylum issues have been dealt with by the Foreigners, Borders and Asylum Department, which is one of the 26 departments in the General Directorate of Security under the National Police Authority” (Kaya, 2009: 12-13). This institutional set up receives criticism for mainly being inefficient and in need

of resources (Kaya, 2009). In the action plan Turkey has committed itself to the establishment of a single and centralized institution under the MOI specialized in the determination of refugee status and fulfilment of the legislative, administrative and infrastructure needs for developing its operational capacity. Initial move has been setting up a separate unit under the MOI specifically dealing with asylum and migration issues. There are several cases that Turkey has been taken to European Court of Human Rights and have been made to pay fines due to its administrative actions against the conventions it undersigned. The need for a specialized and civilian authority to deal with asylum and migration issues have been mentioned in various documents and this has been partially achieved. This is also imagined by the EU as a pre-requisite in reaching the necessary institutional capacity for Turkey to abolish geographical limitation to 1951 Convention. Moreover, the educational needs of this autonomous agency is planned to be met through an asylum academy to be set up under the umbrella of MOI. As the case in EU structure, a major pillar of the system is the information flow and storing data about asylum seekers, setting up an asylum information system which will constitute a rational ground in deciding about asylum applications, establishing the basics of profiling applicants and risk management and which in the future shall be connected to European networks. Therefore, the EU through these changes exports risk management mentality to Turkish bureaucrats, teach them new ways of doing business, governing populations. All these of course require certain financial and human resource investment. Thus, Turkey prepared another twinning and investment project fiche on “Project for Supporting the Development of an Asylum and Country of Origin Information System and the Training of Personnel for the Future Asylum Authority”. The purpose of the project was to ensure that the MOI sets up and employ an information system to decide the country of origin of asylum seekers. (Kaya, 2009).

Apart from the asylum issues, combating and controlling irregular immigration and human trafficking is another topical issue between Turkey and the EU. The following chart gives an idea about the volume of the problem in Turkey:

Table 5.2 Number of Apprehended Illegal Immigrants and Human Smugglers

<b>YEAR</b>	<b>APPREHENDED ILLEGAL MIGRANTS</b>	<b>APPREHENDED HUMAN SMUGGLERS</b>
2000	94.514	850
2001	92.365	1155
2002	82.825	1157
2003	56.219	937
2004	61.228	957
2005	57.428	834
2006	51.983	951
2007	64.290	1242

Source: Ministry of Foreign Affairs, <http://www.mfa.gov.tr/turkey-s-fight-against-illegal-migration.en.mfa>

To prevent illegal immigration, several legislative amendments took place that criminalizes human trafficking in Turkish laws.

Article 36 of the Passport Law (no.5682) foresees imprisonment of one to two years for human trafficking. As a part of legal reform package,

Turkish Parliament added articles 201/a and 201/b to Turkish Penal Code in August 2002. These new amendments directly deal with trafficking and smuggling of human beings and impose heavier penalties. Turkey also signed the 2000 UN Convention against Transitional Organized Crime and its two Protocols in December 2000 (Keser, 2006: 127-128).

Again, the issue of signing a re-admission agreement between Turkey and the EU also keeps coming to the agenda. It is a high priority for the Union whereas a source of concern for Turkish authorities<sup>11</sup>. Interviews with Turkish bureaucrats working on EU accession<sup>12</sup> reveals that they seem to share similar concerns with security bureaucracy, particularly the suspicions on EU's "real intentions". However, they seem to have common concerns with European bureaucrats when it comes to migrants and asylum seekers. The dominant and quite visible approach among bureaucracy is Turkey's lack of resources even in feeding its "own poor". Also another visible issue is the secretive logic inherited for years, particularly the reluctance to share specific numbers and data with the researcher. This was indeed a common criticism of academics during a UNHCR conference in Turkey<sup>13</sup>, that Turkish bureaucracy is unwilling and not necessarily cooperative in sharing statistical data. It should also be noted maybe at this juncture that, keeping record of statistical information is also a new practice for Turkish bureaucracy. However, as this is crucial for profiling and risk management, this is one of the priorities of the EU and Turkish bureaucracy get to understand its importance. However, keeping record of these and sharing it with civil society and academia transparently is something else, which is slowly developing. In that sense mental transformation is still going on among Turkish bureaucracy.

The policy of signing readmission agreements with third countries became a part of the EU's external relations since 2001. Turkey has not been an exception to this. In practice a possible readmission agreement between the two would mean that any person, be it Turkish citizen or not, who passes through the territories of Turkey and enter the territories of the EU, if captured as illegally present in EU

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<sup>11</sup> I observed this first hand during my interviews with Turkish bureaucrats.

<sup>12</sup> Interview at the European Union Secretariat General, 17 November 2009.

<sup>13</sup> UNHCR Conference, 5-6 January 2011, Ankara.

territories shall be returned to Turkey. This leaves the responsibility to deal with these people and to bear the financial cost to Turkey. Although negotiations started, no such agreement with the EU has been concluded yet, nor does it seem possible in the near future without the prospect of full membership. Within the framework of illegal migration, Turkey is encouraged and it does imitate the policy of the EU in signing readmission agreements with primarily the source countries and progressively transit countries and countries of destination. Yet, it is a long process and is still expecting a reply for their proposals from 2001 and 2002 to conclude readmission agreements with various countries. This is also declared in the NAP that Turkey aims to conclude readmission agreements with several countries. In this context, first the neighbouring countries in the west and east and then other source countries are targeted in concluding readmission agreements. The following countries signed a readmission agreement with Turkey: Greece (2002), Syria (2003), Kyrgyzstan (2004), Romania (2004) and Ukraine (2005). “Negotiations continue with Bulgaria, Uzbekistan, Libya, Russia and Belarus. Draft agreements are proposed to a total of 21 countries” (Keser, 2006: 128).

Readmission agreements are also closely related to another concept of the EU again developed recently: safe third country with which a country would be declared safe for asylum seekers. In practice this means that asylum seekers and illegal immigrants can be returned to this country which is declared as safe and which has signed a readmission agreement with the EU.

However, Turkey’s current “two-tiered” asylum system complicates the situation for the EU as Turkey does not allow people coming from countries outside of Europe to be given the asylum status in Turkey. This means that Turkey does bear the burden only for a certain time period, until the person is resettled in a third country. The way to get rid of this two tiered system is abolishing the geographical limitation to 1951 Geneva Convention. This issue has been raised up in almost all documents mentioning asylum by the EU. The NAP mentions the

year 2012 as the target for lifting of ‘geographical reservation’ which does not seem realistic at the moment. Similar to signing readmission agreement with the EU, lifting geographical limitation is something resisted by Turkish authorities unless full membership is guaranteed. If this happens, Turkey will gradually be a country of first asylum which will require more inclusive practices and a full-fledged asylum system.

Setting up an asylum system in Turkey was a priority in the NAP and harmonizing Turkish legislation in providing similar rights and physical conditions to asylum seekers as in Europe. In the existing system, asylum seekers admitted to the country are generally transferred to central parts of the country where there is no security risk and surveillance shall be realized relatively easily. Also in theory asylum seekers and refugees are entitled to work and receive social assistance in Turkey. However, in practice getting a work permit is almost impossible and asylum-seekers are left to the mercy of black market. Moreover, there are several complications in existing legislations such as the Law on Settlement (no. 2510) dating from 1934 and restricting the possibility of settlement and integration only to people of ‘Turkish descent and culture’. Following the NAP, there have been some improvements in terms of legislation. A separate asylum law is being prepared, though not adopted. In the meantime several amendments to 1994 Regulation have been made to the advantage of asylum seekers. The one made by a decree of Council of Ministers in 16 January 2006 replaced the ten days time limit to apply for asylum with the phrase “reasonable time”. Some of the rights of MOI, such as the right to hold interview in deciding about the asylum applications were allowed to be deferred to governorates, leading to decentralisation. More recently in March 2010 a circular touched upon another problem, which is the residence fee claimed from asylum seekers (Ministry of Interior, 2010; Amnesty International, 2010; Cumhuriyet, 2010). As learned from the interview done with the UNHCR officials, the total annual fee reaches as high as 600 US Dollars which is an excessive amount for an asylum seeker to pay. Indeed, for their existence to be legitimate asylum seekers

need a resident number, issued only after paying this fee. Only after having this number they shall apply for employment or education. The recently announced circular numbered 2010/19 advises not charging asylum seekers who are unable to pay this fee. However, the language of circular leaves a crucial room for subjective interpretation. Yet, it is still important at least in terms of realizing the possibility that some of the asylum seekers can experience hardship in paying this money.

As a major actor in Turkish asylum system UNHCR plays a crucial role. In that sense, the interview at the UNHCR Turkey office was insightful and revealing. UNHCR office physically looks a bit like European states well protected and guarded against alien intruders. The office building is surrounded with barbed wires and guarded by security staff. One can only enter the main building after going through security checks. It is impossible not think of the difficulties actual asylum seekers might be facing even in entering the UNHCR building, if an academic needs to go through the security. The interviewee, however, underlined the embedded security logic of Turkish state and bureaucracy against asylum seekers. With a particular reference to the 1994 by law, it was hinted that Turkish state perceives asylum seekers coming from outside of Europe as potential threats to national security. It was also claimed that there is some improvements taking place as a result of EU accession talks, however the security logic is still there as it is very difficult to transform it<sup>14</sup>.

On the other hand, there are also physical and financial dimensions of hosting asylum seekers, refugees and illegal immigrants. The following quote gives an idea about the volume

There were between 1995 and 2007 more than 50,000 people applied for asylum and more than 25,000 were recognized as refugees. Most of these refugees were or are being resettled out of Turkey. During the same period there were also approximately 350,000 transit illegal migrants apprehended by the authorities (Kirişçi, 2009: 1).

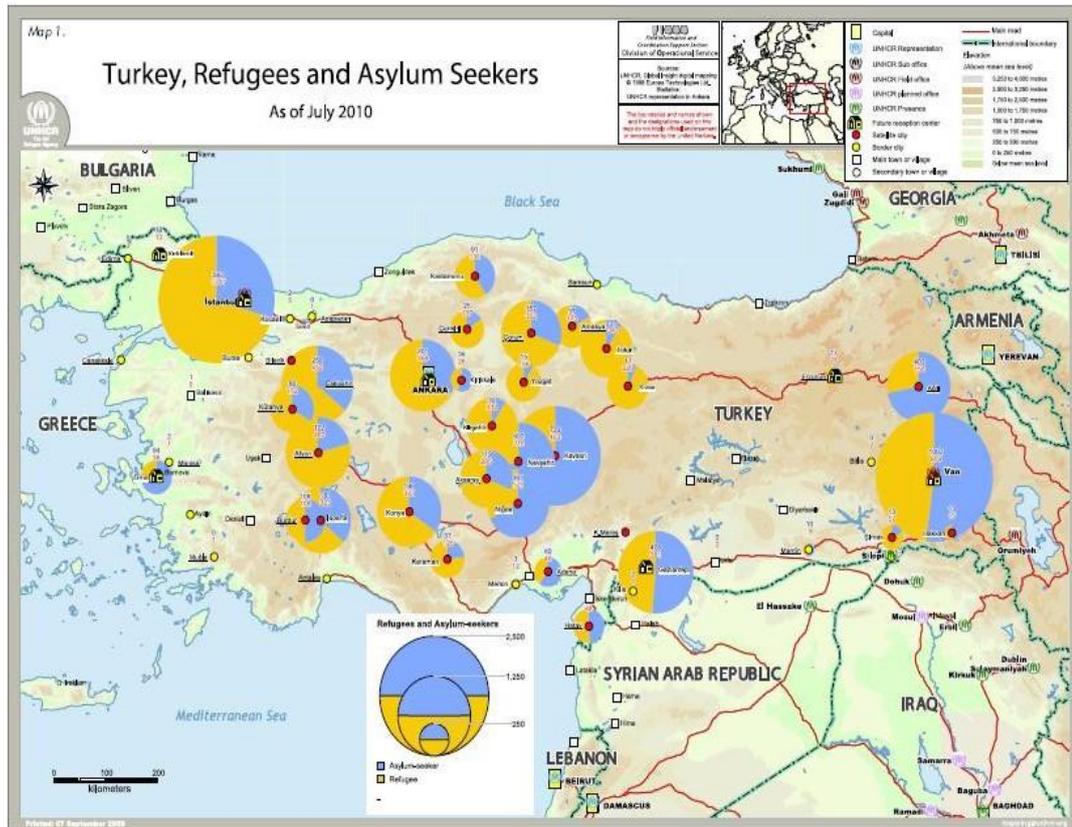
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<sup>14</sup> Interview at the UNHCR Turkey office, December 2010.

Turkish authorities keep expressing their expectation from European authorities about burden-sharing. “Part of this assistance available from the EU now goes to personnel training and organizational restructuring in Turkey” (Keser, 2006: 126-127). Several infrastructure projects are given priority, such as establishing a country of origin and asylum information system. Another requirement of the new system is increasing the capacity of Turkey to host asylum seekers. Establishing Reception and Accommodation Centres for the Asylum Seekers and Refugee Guest Houses is another project with this aim. These centres with a capacity of approximately 750 people shall be established in seven different provinces in Turkey and serve as Regional Centres (Kaya, 2009: 14). This is one of the major projects being implemented at the moment in the area of asylum, however, it also received conflicting reactions from human right activists and security professionals, in the sense that it has the potential to replicate illiberal practices of European countries in Turkey.

The following map shows the current situation in Turkey in terms of numbers and settlement locations of asylum seekers:

Figure 5.1 Location and numbers of Asylum Seekers in Turkey



Source: (UNHCR, *UNHCR in Turkey: Facts and Figures*, Ankara: 2010 )

### 5.6.2.3 HARMONIZATION IN BORDER MANAGEMENT

As already discussed in previous chapters border control has been defined as vital for guaranteeing European internal security. Indeed, as stated in various documents, the EU deems border management essential to prevent illegal immigration. Thus, another crucial area of harmonization is the physical protection of borders and setting up the necessary organizational and technical infrastructure in Turkey. For this, harmonization of legislation and practices around Europe are encouraged and Europe-wide institutions such as FRONTEX are established. Regarding border management the crucial concern for Europe, in tandem with a neo-liberal mentality, is to combine freedom with security;

incorporate efficiency and effectiveness in the functioning of border bureaucracy and attain standardized practices all around the Union (Köktaş and Yılmaz: 2010).

Possible membership of Turkey creates a situation where Turkey's eastern and southern borders shall become the common external borders of the EU. Turkey has land borders with Armenia, Azerbaijan, Georgia, Iran, Iraq and Syria which are long and porous to control, stretching over almost 3000 kilometers (Ministry of Interior, 2006: 15). In the existing structure, several institutions are in charge of various sections of borders: border gates are the area of MOI and Undersecretariat of Customs, border of Iraq and part of Iran is the area of Gendarmerie, rest of land borders are protected by the Land Forces and finally the sea shores are the domain of Coastal Guards (Ministry of Interior, 2006: 25-26).

As already mentioned, since Amsterdam Treaty came into force, candidate states do not have the chance to choose whether to apply Schengen acquis in its entirety before becoming full members or not. Schengen legislation is incorporated in the formal accession talks. Thus, the EU expects Turkey, with the ongoing accession talks, to strengthen effective border control, adopt Schengen and Integrated Border Management (IBM) practices, which means, when put briefly, tighter border surveillance, unification of border control under a single civilian institution and harmonization of visa lists. MOI is in charge of furthering necessary preparations in this area with the contributions of all other relevant institutions. The crucial issue again is in line with a liberal mentality how to have open, functioning and secure borders in Turkey, which requires transformation of mentality as well as practices.

To coordinate Turkey's efforts in this area a task force was set up on borders in 2002. After a year-long study, it prepared the "Strategy Document for the Protection of External Borders" on 14 April 2003 (Kirişçi, 2007: 9). This three page document was agreed to guide the practices of Turkey during the accession process. According to this, Turkey would, in line with the practices in the EU, set

up a civilian and specialized authority under the structure of MOI to control and inspect all border operations within the country (Ministry of Interior, 2003). The legal roots of this idea of a civilian authority can be traced back again to the Schengen legislation as well as Tampere Conclusions of 1999. Indeed, it is stated in the strategy paper that the financial assistance of the EU is conditional on the start of an official strategy to set up this civilian authority. The document also stressed the need to set up IBM practices in the country in line with all previous progress reports, national programme and accession partnership documents (Kirişçi, 2007: 19).

Twinning projects have been again a crucial instrument in EU's transfer of 'methods of governing' or 'conducting the conduct' of Turkey on borders. Following the broadly defined strategy paper of 2003, a twinning project was started on 19 July 2004. In the meantime, the Directorate of IBM Project Implementation was established in 2004. Its mission was planning and preparation of the EU projects within the scope of IBM. This Directorate, initiated a project in collaboration with a French-UK Consortium, titled "Support for the Development of an Action Plan to Implement Turkey's Integrated Border Management Strategy". Within the context of this twinning project, several activities such as trainings on Schengen best practices, deciding on the hardware needs to be employed in borders, training on employing intelligence techniques in borders and the like took place. The major output of this twinning project was the national action plan on borders, which define the road for Turkey and the EU to follow, as a list of priorities in harmonizing legislation, institutional reform, infrastructure, training and initial investment needs. It also was planned to constitute the basis for EU's financial contribution in this area (European Commission, 2005). The NAP on borders was published in 27 March 2006 after being undersigned by the Prime Minister. This 63 page document specified what the current situation in Turkey is and what should be done. Thus, the main aim of the NAP for developing an IBM was to first increase the capacity of the existing bureaucracy, then in line with the decision of the political authority on the nature of the new institutional structure to

be designed. The initial point for IBM was designed as border crossings in the NAP (Ministry of Interior, 2006). Here again it is possible to observe the stress on professionalism, expertise and the necessity of cooperation among different actors. Without doubt the most crucial change the EU expects Turkey to undertake in this field is to set up a separate professionalized and civilian authority in charge of border issues. The new civilian authority is planned to undertake the following duties among others; to fight against organized crime, security of border crossings, fighting against fraudulent documents, carrying out deportation orders, protection of borders and taking necessary measures to implement the immigration policy of Turkish government, to develop and coordinate international cooperation in border management field (NAP, 2006: 43).

In 2008, the Directorate of IBM Project Implementation was replaced by a newly established Development and Implementation Bureau for Border Management Legislation and Administrative Capacity again within the MOI. The Bureau is in charge of carrying out studies for the legislative and administrative structure of IBM, prepares assessment and needs analysis on IBM, implement projects and work on the establishment of a new Border Security Unit (European Commission, 2009). Recently it was announced in Turkish dailies that the MOI has completed the bill establishing a Border Control Agency on which it has been working over the past four years. It foresees a major shift in the organization structure of border management where officers from the gendarmerie, coast guard commands and the National Police Department will be serving under the Border Control Agency. The law has not passed from the Parliament yet. However, recently with a Prime Ministerial Circular a coordination board for IBM practices was set up in 26 May 2010. The board is planned to meet twice a year to coordinate the efforts to fulfil the objectives set in National Programmes, the Strategy Document, and the National Action Plan (European Commission, 2010).

In the meantime, various other projects have been implemented such as the one aiming at developing a training system for border police. A new academic

department was set up within the Police Academy Security Studies Faculty specializing on border issues. Besides these, as of 2009 there were 33 separate projects being run by various institutions working on borders (Akman and Kılıç, 2010:22) such as strengthening the investigation capacity of Turkish National Police and Gendarmerie against Organized Crime.

On the other hand, in 2007 Progress Report, the Commission recommended going another step beyond the action plan by preparing a concrete road map for adopting the *acquis* and European practices. In this context, the External Border Task Force (the Task Force) comprising of representatives of the agencies concerned was established. The Bureau and the Task Force worked out the Draft Road Map on IBM for 2010-2014, which is still under revision by the agencies comprising the Task Force (Akman and Kılıç, 2010:22).

#### **5.6.2.4 HARMONIZING VISA POLICY?**

Final area Turkey is expected to align its policy with the EU under Chapter 24 is the visa policy. According to existing Turkish legislation, aliens must have an entrance visa attached to their passports. However, there are several exceptions to visa requirement. Turkey has been following a relatively flexible yet complicated visa policy. It is flexible as several countries` citizens can receive a sticker visa when entering the country without much hassle. Yet, it is complicated because there are several types of visas in force to different countries. There are three types of visas: single entry, recurrent entries and transit. The relevant legislation is the Passport Law No 5682, whose Article 6 specifies exceptions to visa requirement (Kirişçi, 2007).

There are several factors shaping the visa policy of Turkey, such as reciprocity or economic concerns. Turkey is a signatory to the European Agreement on Regulations Governing the Movement of Persons between Member States of the Council of Europe of December 1957. In accordance with this agreement, Turkish nationals and nationals of member countries of the Council of Europe, in general,

enjoyed the possibility to travel freely without visas to each other's countries. However, subsequent to the military intervention in Turkey in September 1980, a number of countries started the practice of visa to Turkish citizens (Kirişçi, 2007). In the current situation, Turkish citizens have to go through painful processes to receive the Schengen visa to enter the EU which is being criticized by almost all actors in Turkey.

Interestingly, though there is relative harmonization in other areas of Chapter 24, Turkish practices are diverging more and more from Europe recently. Turkey has been signing agreements with neighbouring countries to abolish visas. Many of these countries are in the negative list of the EU.

## **5.7 TOOLS CONTROLLING MIGRATION RISKS, PROCESSES, PROJECTS: CHANGE IN PRACTICE**

As a result of all these accession negotiations, Turkey is becoming a part of the European ban-opticon if not the EU. It is adopting the legislation of the Union in various areas including the borders, asylum and migration. No matter if Turkey becomes a formal member in the end or not, this interaction leads to transformation in Turkish mentality and practices. Therefore, there is a complicated inclusion and exclusion process taking place. The EU pursues its policies to secure itself through liberal means. However, the outcome of this power relationship is not determined from the outset, the approach of the EU includes all forms of governing; sovereignty, discipline and governmentality. The EU would like to transform Turkish practices in governing certain policy fields. In Turkey, on one hand the old security logic build on the concern of sustaining the homogeneity of the nation, is being replaced by another security logic that constructs Turkey as part of European ban-opticon if not the EU. This discourse also claims the necessity of adopting new methods, ways and techniques for governing this policy field similar to the EU and according to its norms, which

mainly centres on human right but when it comes to illegal immigrants that privilege the right of European citizens to leave without risks.

On the one hand, Turkish bureaucracy is being bombarded with projects and the project implementation mentality that is forcing them becoming aware of the limits; budgetary, time and human capital as well as notions of efficiency and effectiveness. In order to receive funds from the EU, they need to adjust their way of doing business according to this, legitimize their preferences that requires planning and budgeting. For all the policy issues task forces are being up, strategy documents, national action plans are being prepared. Different institutions are being forced to work together and cooperate. New interpretation of internal security is being implemented that stresses the need for risk analysis in a world where the distinction between inside and outside is blurred. In the customs authority as well as MOI who dealing with illegal migrants, borders and asylum seekers risk management departments are being set up, methods of risk analysis, profiling are being introduced. The necessary infrastructure to become a part of European surveillance mechanisms such as SIS, VIS or EURODAC is being prepared, information on the functioning of these are given. The border gates are being modernized, the police in charge of passport control are receiving training on how to check the authenticity of travel documents, how to profile people. The Turkish police cooperate with EUROPOL, undertakes necessary legislative amendments to become a part of it. That is Turkish security bureaucrat is being internationalized, interact and learn from their European colleagues about the new security threats and the methods to fight with them.

Indeed, if and when all the demands of the EU are met, Turkey will be a first country of asylum and a safe third country which means any person entering the EU through Turkey will be returned to Turkey for their asylum claims or deportation procedures to be processed. In the meantime removal centers would be established in various parts of the country in line with European standards. A crucial component of this would be Turkey's signing readmission agreements

with its neighbouring countries, by which Turkey would duplicate the system in Europe. At face value this might seem as positive where situation of asylum seekers and illegal immigrants might improve, however when scrutinized closely this whole structure undermines functioning of the international asylum system, making it more difficult for asylum seekers to access asylum and impossible to reach any European country (UNHCR, 2010). As quoted in the beginning of the chapter from Sandra Lavenex (1999: 4), Turkey is going through a similar process as the CEEC where it faces “the conflicting requirement of sealing its borders against illegal immigrants whilst upholding the humanitarian standards of refugee protection”, but for Turkey the case is even worse as the end-result of the negotiations is not clear. Turkish bureaucracy on the one hand becomes aware of humanitarian standards, on the other hand faces the paranoia about illegal migration in Europe, fears to be the ‘dumping ground’ of Europe, which bears the potential to eradicate the humanitarian gains.

To sum up, this chapter argued that Turkey constitutes an interesting example and it inquired the ways and methods of the EU to conduct the actions of Turkish populations, including Turkish bureaucracy. The field is a strategic playground and keeps producing new power relations. In this context, if one likes to further Foucault’s approach, there is the need to dig deeper into the sites of power. This work fails to focus on specific micro-power relations and still adopts a macro perspective, but hopes to constitute a starting point for upcoming research willing just to focus on one specific institution and specific practices, such as the transformation in coastal guards or the police force.

## CHAPTER VI

### CONCLUSION

*My point is not that everything is bad, but that everything is dangerous...*

Michel Foucault<sup>15</sup>

This thesis inquired the new border management model of the EU that emerged as a result of increasing integration at the European level and new security formulations regarding internal security. Specific attention has been paid to the externalization of internal security, with a particular focus on immigration and asylum. The EU has become an active player in the field of internal security as a result of several developments which are: abolishing internal borders in Europe, increasing integration in the field of Justice and Home Affairs which is legitimized with the discourse to compensate security risks caused by borderless Europe, increasing pace of globalization and increasing numbers of migrants and asylum seekers. Although in the traditional pillar structure of Maastricht, internal security issues were framed in the inter-governmental third pillar, Amsterdam moved them to the first pillar and created more room for community activism in these areas. After Amsterdam, particularly starting with Tampere Programme there has been an increasing stress on the external dimension of internal security. Indeed, in its security strategy document in 2003 the EU underlined the link

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<sup>15</sup> Foucault in (Colin Gordon, 1980).

between internal and external security challenges. These documents do not necessarily equate migration with insecurity, however they kept discussing about illegal migration together with other security issues such as terrorism. This created a security continuum where all the issues of borders, migration and asylum are framed parts of this. These developments resulted in imagining new policies to govern the internal security field in Europe including movement of people.

In line with a social constructivist standpoint it is necessary to locate these developments in a historical and social context. There have been several milestones in the history of integration that led the EU to become an actor in internal security. The initial cooperation in this field was through inter-governmental Schengen Agreements which, in the end became a formal part of the Union *acquis*. Setting up a single market also triggered discussions about security deficits that can only be healed through compensatory measures. Maastricht formalized this cooperation to adopt compensatory measures and Amsterdam created room and perspective for more integration to achieve an area of freedom, security and justice, yet not necessarily in this order. With the programmes of Tampere, Hague and most recently Stockholm strict deadlines for five year plans were created. Especially Tampere was a crucial moment where externalization of border management policy was officially embraced. JHA cooperation at the intergovernmental area already had many fault lines such as the deficit of democratic and judiciary control over policy making and implementation and the general increasing weight of security as opposed to liberty. This has been brought under the umbrella of the Union the way it is. Thus, created quite rightly some concerns in several circles such as human right activists. Particularly immigrants and asylum seekers started to be seen as risk groups and externalization and increased surveillance have been adopted as the way to 'fight' with this. Developments moved on two tracks; first, institutions and databases proliferate to regulate this field through experts and second, the EU tries to establish a de-facto 'protection zone' around it by exporting the rules of governing or as commonly called via externalization of internal security.

However, this does not necessarily happen as a result of domination or totally on an unequal manner. On the contrary, the EU frames its discourse within a liberal mentality and liberal way of doing business, which aims to facilitate on the one hand movement of goods and people, but on the other hand fight with risks and threats effectively. It constructs a 'ban-opticon' like policy where the parties internalize surveillance and disciplining techniques as part of good governing.

All these developments have been taking place in a convenient international environment where the bi-polar world order ceased to exist by leaving security professionals literally without major occupation. In the end, security professionals adopted globalization and the possible threats it may create, as their major occupation. In a global world where movement of people became much easier, migration was put in this new concern group. That is migration was located along this 'security continuum' set up by security professionals. September 11, 2001 events also facilitated this security perspective to prevail over other discourses. Parallel to the works of security professionals in security studies new discussions were being formulated to widen and deepen discussions about security. These could be categorized under three groups in Europe: the Welsh School, the Copenhagen School and the Paris School. This thesis benefitted in understanding the developments in Europe mainly from the insights of Paris School, which frames security as a tool to govern populations and attributes importance both to discursal formulations of security as well as practices, particularly of security professionals.

Definition of European security has been influenced from these developments. Since 1970s there has been an increasing interest in migration in European states and societies. However, the heavy agenda of Cold War was keeping it at the national level. With the end of the Cold War it has concurred with the discourses on new global problems including migration and terror. European states started to see the EU as a new platform for cooperation and a mean to fight with this changing international environment. The EU has been defining new norms for

security and protection regarding borders and migrants. These new norms are tried to be exported to third countries. All these are reflected in the Justice and Home Affairs cooperation of the EU, which has been one of the fastest integration areas of the Union. The processes of Europeanization and externalization of internal security went hand in hand, which resulted in a defensive approach to European internal security that relies on pre-emptive and surveillance techniques.

The EU has been a project of security since the beginning and it differentiated itself by denying the use of military force. Indeed, the main logic behind integration was to prevent the use of force in Europe. Thus, the Union has defined its identity through being an ardent follower of international norms and human rights. This discourse positioned itself in a hierarchical relation with other states it interacts with. However, migration and border security complicates this picture. Increasing stress on border management and fighting with illegal migrants, necessitates a changing politics of security and protection.

Legislative changes of Amsterdam followed by adoption of new policy initiatives in Tampere (1999) and Hague (2005) Summits, culminated in adopting a Global Approach to Migration issues in the EU. Within the literature on EU's role in migration and asylum two concepts seem to shape discussions lately: Europeanization and securitization. While the first refers to the transformative power of the EU on domestic policy structures, the latter refers to an increased tendency of pronouncing migration with security. This thesis did not promise to be a re-interpretation of Europeanization theories or the arguments that try to legitimize the restrictive discourse of the EU whose excuses vary from the loss of control with the abolition of internal borders, unprecedented refugee fluxes to terrorist threat. On the contrary, it argued against both Europeanization and securitization literatures to a certain extent. Europeanization literatures inquire the transformative power of the EU with a specific focus on decision making mechanisms or institutions; however, they are not necessarily interested in the results of this change. Indeed, it almost automatically attributes a positive

meaning to Europeanization. On the other hand, securitization of migration discussions put a great emphasis on the discourse, but tends to fail paying enough attention to practices. Discourse do not only mean speech acts, but should include practices of politicians and experts in advanced liberalism. These bear the potential to formulate new relationships of power in the society.

Another crucial issue has been externalization of internal security issues, which tries to tackle the issue before reaching the border of the EU. This has been furthered through several techniques that can be categorized under two broad heading: pre-emption and surveillance. External policy tools such as enlargement or the European Neighborhood Policies are also formulated accordingly. 2004 enlargement triggered insecurities about the capacity of new members to manage the borders of the Union. Therefore, since Tampere migration and border management concerns are officially embraced in external policies to discipline to be members and shape their policies and practices. During this process, readmission agreements, safe third country practices became major tools of externalization, which do not necessarily have a legitimate ground in terms of international law particularly law of asylum. Several scholars starting from 2000 defined these developments as policing by network and remote control in European societies. They presuppose numerous changes related to targets, technology, control points and conceptions of security and these changes are exported towards the periphery of the EU, starting with the CEECs. Yet, this was not a clear result of comprehending what is at stake in terms of norms and interest when exporting these.

In this context besides discursal construction of an internal security field, as a result of a governmentality approach it is necessary to look at practices, particularly of experts on the ground and changing power relations. Turkey constitutes a case study to scrutinize both discursal formulations and practices of transformation as a result of externalization of internal security field, particularly policies on migration and border control.

Within the light of these developments this work also provided, as a case study, a complex reading of Turkey-EU relations in view of Turkey's accession to the EU. After CEECs, now Turkey is the country to which the EU is trying to export its policing activities. The general discourse regarding Turkey-EU relations is still oppositional and exclusionary, particularly in the area of migration. However, there are also very profound and complex other dimensions emerging in the EU-Turkey migration- security nexus.

The Turkish case proves that it is difficult to categorize practices of the EU as illiberal or oppressive. On the contrary its pressure is for exporting a certain mentality or certain way of conduct, yet guaranteeing the safety net around the Union. First, the EU asks Turkey to be totally in charge of its borders and prevent any infiltration of illegal migrants, that is, it asks Turkey to be a proper Westphalian state. It asks Turkey to stop producing refugees and illegal migrants itself, asks Copenhagen Political Criteria to be adopted in full. It expects Turkish sovereign to rule populations through liberal tools and methods rather than being a police state. However, it tries to construct a system where, if any such illegal immigrant or asylum seeker still manages to cross through these totally controlled border, they would stay in Turkey and taken care of in line with certain standard practices. Even if they manage to go across Europe they shall be returned back to Turkey. These would be enabled with several legal amendments required in Turkish laws. One is abolishing the geographical limitation Turkey applies to 1951 Geneva Convention, another is signing a readmission agreement with the EU, which will commit Turkey to receive any Turkish or third country citizen passing through its territory to take back; third is declaring Turkey as a safe third country where asylum seekers would be safe and thus shall apply for asylum without the need to go further into Europe. At the same time, the EU finances several projects within the country to increase the capacity of Turkey in various areas. Also, this way Turkish bureaucracy as well as civil society is made familiar with project mentality where a limited budget is provided, efficiency and effectiveness are crucial concerns as well as major outputs. Again, security

bureaucracy of Turkey is going through a socialization process as a result of increased interaction with European counterparts. They are also required to upgrade their human capacity as well as infrastructural tools to be able to cooperate with their European counterparts. For instance Turkey established risk assessment units in Ministry of Interior and Undersecretariat of Customs. They are being taught about practices of profiling and risk management. Again, Turkey is given money to construct admission and deportation centers in different parts of the country which will be self-sufficient campuses for asylum seekers and illegal immigrants.

Thus Turkey is being made to duplicate the border management model of the EU and is becoming a part of the European ban-opticon. This does not necessarily mean a negative development; however, as Foucault says in the above quotation it is dangerous. At face value this might seem as positive where situation of asylum seekers and illegal immigrants might improve to a certain extent, however when scrutinized closely this whole structure undermines functioning of the international asylum system, making it more difficult for asylum seekers to access asylum and impossible to reach any European country (UNHCR, 2010). Thus, Turkey is going through a similar process as the CEEC where it faces the conflicting requirement of sealing its borders against illegal immigrants whilst upholding the humanitarian standards of refugee protection, but for Turkey the case is even more complicated as the end-result of the negotiations is not clear and its geography is more problematical, bordering countries like Iran which is producing large number of political refugees. Turkish bureaucracy on the one hand becomes aware of humanitarian standards, on the other hand faces the paranoia about illegal migration in Europe, fears to be the ‘dumping ground’ of Europe, which bears the potential to eradicate the humanitarian gains.

## SELECTED BIBLIOGRAPHY

Abrahamsan, Rita (2004), 'The Power of Partnership in Global Governance', *Third World Quarterly*, 25 (8): 1453- 1467.

Adler, Emanuel and Michael Barnett (1998), *Security Communities*, Cambridge: Cambridge University Press.

Akgündüz, Ahmet (1998), 'Migration to and from Turkey, 1783-1960: types, numbers and ethno-religious dimensions', *Journal of Ethnic and Migration Studies*, 24(1): 97-120.

Albert, Mathias et al (eds.) (2001), *Identities, Borders and Orders: Rethinking International Relations Theory*, London: University of Minnesota Press.

Allen, David (2004), 'The Convention and the Draft Constitutional Treaty' in Cameron Fraser (ed.), *The Future of Europe: Integration and Enlargement*, London: Routledge.

Anderson, Malcolm and Apap Joanna (2002), 'Changing Conceptions of Security and Their Implications for EU Justice and Home Affairs Cooperation', *CEPS Policy Brief*, No.26.

Anderson, Malcolm (2007), 'Internal and External Security in the EU: Is There Any Longer a Distinction?' in Stefan Ganzle and Allen G. Sens (eds.), *The Changing Politics of European Security*, London: Palgrave.

Anderson, Malcolm and Eberhard Bort (2001), *The Frontiers of the European Union*, New York: Palgrave.

Anderson, Malcolm et al. (eds. 1995), *Policing the European Union*, Oxford: Oxford University Press.

Apap, Joanna and Sergio Carrera (2003), 'Maintaining Security Within Borders: Towards a Permanent State of Emergency in the EU', *CEPS Policy Brief*, No.41.

Aradau C. and van Munster R. (2008) 'Insuring terrorism, assuring subjects, ensuring normality: The politics of risk after 9/11', *Alternatives*, 33: 191–210.

AREM (2006), *Avrupa Birliđi Bađlamında Yasadıřı Gle Mcadele*, available at [http://www.arem.gov.tr/rapor/bilgi/AB\\_yasadisi\\_goc.htm](http://www.arem.gov.tr/rapor/bilgi/AB_yasadisi_goc.htm)

Bacero, Ana (2004), ‘The External Aspect of Migration Policy’, *EUI-WP RSCAS*, No: 2004/05.

Bache, Ian (2008), *Europeanization and Multi-level Governance*, Plymouth: Rownan and Littlefield Publisher.

Baldaccini, A. and Helen Toner (2007), ‘From Amsterdam and Tampere to the Hague: An Overview of Five Years of EC Immigration and Asylum Law’, in Elspeth Guild et al. (eds), *Whose Freedom, Security and Justice: EU Immigration and Asylum Law and Policy*, Oxford: Hart Publishing.

Balzacq, Thiery (2008), ‘The External Dimension of EU Justice and Home Affairs: Tools, Processes, Outcomes’, *CEPS Working Document*, No. 303.

Balzacq, Thiery (ed.) (2009), *The External Dimension of EU Justice and Home Affairs: Governance, Neighbours, Security*, London: Palgrave.

Balzacq, Thiery and Carrera Sergio (eds.) (2006), *Security versus Freedom: A Challenge for Europe’s Future*, Hampshire: Ashgate.

Barnett, Michael and Raymond Duvall (eds.) (2005), *Power in Global Governance*, Cambridge: Cambridge University Press.

Barroso, Jose Manuel (2004), ‘Building a Partnership for Europe: Prosperity, Solidarity, Security’, Speech 04/375 available at [http://www.ena.lu/address\\_given\\_jose\\_manuel\\_barroso\\_strasbourg\\_21\\_july\\_2004-020005481.html](http://www.ena.lu/address_given_jose_manuel_barroso_strasbourg_21_july_2004-020005481.html)

Barry, Andrew et al. (1996), *Foucault and Political Reason: Liberalism, Neo-Liberalism and Rationalities of Government*, London: UCL Press.

Battjes, Hemme (2005), ‘The Common European Asylum System: The First Stage’, in Jean-Yves Carlier and Philippe de Bruycker (eds.), *Immigration and Asylum Law of the EU: current debates*, Bruxelles: Bruylant.

Bayley, D.H. (1975) 'The Police and Political Development in Europe', in Charles Tilly (ed.), *The Formation of National States in Europe*, Princeton: Princeton University Press.

Beck, Ulrich (1992), *Risk Society: Towards a New Modernity*, London: Sage Publications.

Beck, Ulrich (2007), *Cosmopolitan Europe*, Cambridge: Polity Press.

Beck, Ulrich et al. (1994), *Reflexive Modernization: Politics, Tradition and Aesthetics in the Modern Social Order*, Stanford: Stanford University Press.

Belen Garcia de Vinuesa (2003), 'Building a Rights Based Asylum System for Europe: a UNHCR Perspective', in Turton, David and Julia Gonzalez (eds.), *Immigration in Europe: Issues, Policies and Case Studies*, Bilbao: University of Desoto.

Bernauer, James W. (2005), *Foucault'nun Özgürlük Serüveni Bir Düşünce Etiğine Doğru*, İstanbul: Ayrıntı Yayınları.

Bertozzini, Stefano (2008). 'Schengen: Achievements and Challenges in managing an Area Emcompassing 3.6 millin km<sup>2</sup>', *CEPS Working Document*, No.284.

Bigo, Didier (2000a), 'Border Regimes and Security in an Enlarged European Community Police Co-operation with CEECs: Between Trust and Obligation', *EUI Working Papers*, RSC No. 2000/ 65, San Domenica.

Bigo, Didier (2000b), 'When Two Become One: Internal and External Securitizations in Europe' in Michael Williams and Morten Keltshrup (eds.), *International Relations Theory and European Integration*, London: Routledge.

Bigo, Didier (2001). 'Internal and External Security(ies): The Möbius Ribbon', *Identities, Borders, Orders*. M. Albert, D. Jacobson and Y. Lapid. Minneapolis, University of Minnesota Press.

Bigo, Didier (2002), 'Security and Immigration: Toward a Critique of the Governmentality of Unease', *Alternatives*, 27 (Special Issue).

Bigo, Didier (2004), 'Criminalization of Migrants: The Side Effect of the Will to Control the Frontiers and the Sovereign Illusion', in Barbara Bogusz et al, *Irregular Migration and Human Rights: Theoretical, European and International Perspectives*, Leiden: Martinus Nijhoff Publishers.

Bigo, Didier (2005), 'Liberty, Whose Liberty? The Hague Programme and the Conception of Freedom' available at <http://www.libertysecurity.org/article339.html>

Bigo, Didier (2006) 'Protection: Security, Territory and Population' in Jef Huysmans et al (eds), *The Politics of Protection: Sites of Insecurity and Political Agency*, London: Routledge.

Bigo, Didier (2008), 'Globalized (In)security: the Field and the Banopticon' in Didier Bigo and Anastasia Tsoukala (eds.), *Terror, Insecurity and Liberty: Illeberal Practices of Liberal Regimes after 9/11*, New York: Routledge.

Bigo, Didier and Elspeth Guild (2005, eds.), *Controlling Frontiers: Free Movement into and Within Europe*, Hants: Ashgate

Bigo, Didier and Julien Jeandesboz (2009), 'Border Security, Technology and the Stockholm Programme', *Center for European Policy Studies*, Brussels: CEPS.

Bigo, Didier et al. (2010), *Europe's 21<sup>st</sup> Century Challenges: Delivering Liberty*, Surrey: Ashgate.

Bigo, Didier, and Anastassia Tsoukala. (2008) *Terror, Insecurity and Liberty. Illeberal Practices of Liberal Regimes after 9/11. Liberty and Security*, New York: Routledge.

Bilgin, Pinar and Ali Bilgic (2011), 'Consequences of European Security Practices in the Southern Mediterranean and Policy Implications for the EU', *Center for European Studies*, Brussels: CEPS.

Birand, Mehmet Ali (2001), *Türkiyenin Avrupa Macerası 1959-1999*, İstanbul: Doğan Kitap.

Boccardi, Ingrid (2002), *Europe and Refugees: Towards an EU Asylum Policy*, Hague: Kluwer Law International.

Bohlin, Anna (2008), *Protection at the Cost of Privacy? A Study of the Biometric Registration of Refugees*, Unpublished Masters Thesis, University of Lund.

Bonditti, Philippe (2004), 'From Territorial Space to Networks: A Foucauldian Approach to the Implementation of Biometry', *Alternatives*, 29: 465-482.

Booth, Ken (1991), 'Security and Emancipation', *Review of International Studies*, 17: 313-326.

Booth, Ken (1997), 'Security and Self: Reflections of a Fallen Realist' in Keith Krause and Michael C. Williams (eds.), *Critical Security Studies: Concepts and Cases*: Minneapolis: University of Minnesota Press.

Booth, Ken (2005, ed.) *Critical Security Studies and World Politics*, Boulder, CO: Lynne Rienner.

Booth, Ken (2007), *Theory of World Security*, Cambridge: Cambridge University Press.

Booth, Ken et al (1996), *International Theory: positivism and beyond*, Cambridge: Cambridge University Press.

Boswell, Christina (2003a) 'The 'external dimension' of EU Immigration and Asylum Policy', *International Affairs*, 79 (3).

Boswell, Christina (2003b), *European Migration Policies in Flux: Changing Patterns of Inclusion and Exclusion*, London: Blackwell Publishing.

Brouwen, Evelien (2006), 'Data Control and Border Surveillance in the EU: Balancing Efficiency and Data Protection' in Thierry Balcaq and Sergio Carrera (eds.), *Security Versus Freedom: A Challenge for Europe's Future?*, Burlington: Ashgate.

Brubaker, Rogers (2001, first published in 1992), *Citizenship and Nationhood in France and Germany*, Cambridge: Harvard University Press.

Bunyan, Tony (1993), 'Trevi, Europol and the European State', *Statewatching the New Europe*, 1993/1.

Burchell, Graham (1996), "Liberal Government and Techniques of the Self", in Andrew Barry et al. (eds.), *Foucault and Political Reason: Liberalism, Neo-Liberalism and Rationalities of Government*, London: UCL Press.

Burchell, Graham et al. (eds.) (1991), *The Foucault Effect: Studies in Governmentality*, The University of Chicago Press.

Buzan, Barry (1991, 2nd ed), *People, States and Fear: An Agenda for International Security Studies in the Post-Cold War Era*, Essex: Pearson.

Buzan, Barry (1997), "Rethinking Security After the Cold War", *Cooperation and Conflict*, 32 (1): 5-28.

Buzan, Barry (2006) 'The "War on Terrorism" as the New Macro-securitization?', *Paper presented at Oslo workshop, 2-4 February*.

Buzan, Barry (2006) 'Will the 'global war on terrorism' be the new Cold War?', *International Affairs*, 82 (6): 1101-1118.

Buzan, Barry et al. (1993), "Introduction: the changing security agenda in Europe" in Ole Wæver et al., *Identity, Migration and the New Security Agenda in Europe*, New York: St Martin's Press.

Buzan, Barry et al. (1998), *Security: a New Framework for Analysis*, London: Lynne Rienner.

Buzan, Barry, Ole Waever and Jaap De Wilde (1998), *Security: A New Framework for Analysis*. London: Lynne Rienner Publishing.

Carrera, Sergio (2007), 'The EU Border Management Strategy: FRONTEX and the Challenges of Irregular Immigration in the Canary Islands', *CEPS Working Document*, No.261.

Carrera, Sergio and Florian Geyer (2007), 'Terrorism, Borders and Migration: The Commission's 2008 Policy Strategy in the Area of Freedom, Security and Justice', *CEPS*, June 2007, No. 131.

CASE Collective (2006) 'Critical approaches to security in Europe: A networked manifesto', *Security Dialogue* 37(1): 443-487.

Castles, Stephen (2007), 'The Migration-Asylum Nexus and Regional Approaches', in Susan Kneebone and Felicity Rawlins- Sanaei (eds.

2007), *New Regionalism and Asylum Seekers: Challenges Ahead*, Oxford: Berghahn Books.

Centre for European Policy Studies (2005), *Changes In the Security Concept and JHA Agenda*, 20 June 2005, available at <http://www.libertysecurity.org/article293.html>

Cha, D. Victor (2000), “Globalization and the Study of International Security”, *Journal of Peace Research*, 37(3): 391-403.

Chimni, B.S. (1998), ‘The Geopolitics of Refugee Studies: A View from the South’, *Journal of Refugee Studies*, 11(4): 350-374.

Coker, Christopher (2002), ‘Globalisation and Insecurity in the Twenty-first Century: NATO and the Management of Risk’, *Adelphi Papers*, no 345.

Collins, A.(2007), *Contemporary Security Studies*, Oxford: Oxford University Press.

Comelli, Michele et al. (2007), “From Boundary to Borderland: Transforming the Meaning of Borders through the European Neighbourhood Policy”, *European Foreign Affairs Review*, No. 12.

Cowen D. and Emily Gilbert (2008), ‘The Politics of War, Citizenship, Territory’ in Deborah Cowen and Emily Gilbert (eds), *War, Citizenship, Territory*, New York: Routledge.

Cremona, Marise (ed.) (2003), *The Enlargement of the European Union*, Oxford: Oxford University Press.

Çalış, Şaban (2006) *Türkiye-Avrupa Birliği İlişkileri Kimlik Arayışı, Politik Aktörler ve Değişim*, Ankara: Nobel Yayın.

Danış, Aslı (2004), ‘Yeni Göç Hareketleri ve Türkiye’, *Birikim*, 184-185, August-September.

Dartan, Muzaffer and Esra Hatipoglu (2006), “The Future of Turkey-EU Relations: Post-December 2004” in Nanette Neuwahl and Haluk Kabaalioglu (eds.), *European Union and Turkey: Reflections on the Prospects for Membership*, Istanbul: Lito Printing House.

De Genoa, Nicholas and Nathalie Peutz (2010, eds), *The Deportation Regime: Sovereignty, Space and the Freedom of Movement*, London: Duke University.

de Vinuesa, Belen Garcia (2003), 'Building a Rights Based Asylum System for Europe: a UNHCR Perspective', in Turton, David and Julia Gonzalez (eds.), *Immigration in Europe: Issues, Policies and Case Studies*, Bilbao: University of Deusto. .

Dean, Mitcell and Paul Henman (2004), 'Governing Society Today: Editors' Introduction', *Alternatives*, 29: 483-494.

Dean, Mitchell (1999), *Governmentality: Power and Rule in Modern Society*, London: Sage Publications.

De Bardeleben, J. (2005, ed.), *Soft of Hard Borders: Managing the Divide in an Enlarged Europe*, Hants: Ashgate.

Den Boer, Monica and William Wallace (2000), 'Justice and Home Affairs: Integration through Incrementalism ?' in Helen Wallace and William Wallace (eds.), *Policy Making in the EU*, Oxford: Oxford University Press.

Didier, Bigo and Rob Walker (2007), 'Political Sociology and the Problem of the International Millenium', *Journal of International Studies* 35:725-739.

Diez, Thomas (2005), "Constructing the Self and Changing Others: Reconsidering 'Normative Power Europe'", *Millennium: Journal of International Studies*, 33(3), pp. 613- 636. .

Dillon, Michael (1999), 'The Scandal of the Refugee: Some Reflections on the 'inter' of International Relations and Continental Thought', in David Campbell and Michael J. Shapiro (eds), *Moral Spaces: Rethinking Ethics and World Politics*, Minneapolis: University of Minnesota Press.

Dillon, Michael (2001), 'The Sovereign and the Stranger' in Jenny Edkins, Nalini Persam and Veronique Pin-Fat (eds.) *Sovereignty and Subjectivity*, London: Lynne Rienner.

Dinan, Desmond (2004), *Europe Recast: History of European Union*, London: Palgrave Macmillan.

DuBois, Marc (1991), 'The Governance of the Third World: A Foucauldian Perspective on Power Relations in Development', *Alternatives*, 16: 1-30.

Duffield, Mark (2001), *Global Governance and the New Wars: The Merging of Development and Security*, London: Zed Books.

Duffield, Mark (2007), 'Development, Territories and People: Consolidating the External Sovereign Frontier', *Alternatives*, 32; 225-246.

Duffield, Mark (2008), 'Global Civil War: The Non-Insured, International Containment and Post-Interventionary Society', *Journal of Refugee Studies*, 21 (2).

Dunkerley, David et al (eds.) (2002), *Changing Europe; Identities, Nations and Citizens*, London: Routledge.

Erdemir, Burcu (2005), *The Specificity of the Eastern Enlargement: "A Unique Experience for the EU"*, Unpublished Masters Thesis, Ankara: METU.

Ericson V. Richard and Kevin Haggerty (1997), *Policing the Risk Society*, Toronto: University of Toronto Press Incorporation.

Eriksson, J. (1999), "Observers or Advocates? On the Political Role of Security Analysts", *Cooperation and Conflict*, 34 (3): 311-327.

Evans, Graham and Jeffrey Newham (1998), *The Penguin Dictionary of International Relations*, London: The Penguin Books.

Faubian, D. James (ed.) (2000), *Michel Foucault: Essential Works of Foucault 1954-1984*, London: Penguin Press.

Fawcett, Louise and Andrew Hurrell (1995), *Regionalism in World Politics: Regional Organization and International Order*, Oxford: Oxford University Press.

Featherstone, Kevin and Claudio M. Radaelli, (2003), *The Politics of Europeanization*, Oxford: Oxford University Press.

Ferguson J, Gupta A (2002) 'Spatializing states: Towards an ethnography of neoliberal governmentality', *American Ethnologist*, 29(4): 981–1002.

Ferruccio Pastore, (2001) 'Reconciling the prince's two 'arms': Internal-external security policy coordination in the European Union'. *EU-ISS Occasional Paper* 30.

Fierke, K.M. (2007), *Critical Approached to International Security*, Cambridge: Polity.

Foucault, Michel (1977), *Discipline and Punish: the Birth of the Prison*, New York: Vintage Books.

Foucault, Michel (1991), 'Governmentality', in Graham Burchell et al (eds.), *The Foucault Effect: Studies in Governmentality*, Chicago: University of Chicago Press.

Foucault, Michel (1994), 'The Subject and Power', in James D. Faubion (ed.), *Michel Foucault, power essential works of Foucault 1954-1984, Volume 3*, London, Penguin Books.

Foucault, Michel (2007), *Security, Territory, Population: Lectures at the College de France 1977-1978*, New York: Palgrave Macmillan.

Frelick, Bill (1997), 'Barriers to Protection: Turkey's Asylum Regulations', *International Journal of Refugee Law*, 9(1).

Friis, Lykee and Anna Murphy (1999), 'The European Union and Central and Eastern Europe', *Journal of Common Market Studies*, 37 (2): 211-32.

Fuster, Gloria Gonazales et al (2010), "Profiling in the European Union: A High Risk Practice", *CEPS*, No:10.

Gammeltoft-Hansen, Thomas (2006), "Filtering Out the Risky Migrant, Migration Control, Risk Theory and the EU", *AMID Working Paper Series 52/2006*, available at [http://www.amid.dk/pub/papers/AMID\\_52-2006\\_Thomas\\_Gammeltoft-Hansen.pdf](http://www.amid.dk/pub/papers/AMID_52-2006_Thomas_Gammeltoft-Hansen.pdf)

Geddes , Andrew (2003), *The Politics of Migration and Immigration in Europe*, London : Sage.

Gibney, J Matthew (2006), 'A Thousand Little Gunatanamos: Western States and Measures to Prevent the Arrival of Refugees', in Kate E.Tunstall (ed.), *Displacement, Asylum, Migration*, Oxford: Oxford University Press.

Goodwin-Gill, G. and Jane McAdam (2007), *The Refugee n International Law*, Oxford: Oxford University Press.

Gordenker, Leon (1987), *Refugees in International Politics*, London: Croom Helm.

Gordon, Colin (1991), 'Governmental Rationality: An Introduction' in G. Burchell et all (eds), *The Foucault Effect: Studies in Governmentality*, Chicago: University of Chicago Press.

Gordon, Colin (ed.) (1980), *Michel Foucault: Power /Knowledge*, London: Harvester.

Grabbe, Heather (2001), 'How Does Europeanization Affect CEE Governance? Conditionality, Diffusion and Diversity', *Journal of European Public Policy*, 8 (6).

Grabbe, Heather (2000), 'The Sharp Edges of Europe: Extending Schengen Eastwards', *International Affairs*, 76 (3): 519-36.

Grabbe, Heather (2002), 'European Union Conditionality and the Acquis Communautaire', *International Political Science Review*, 23 (3): 249-268.

Güner, Cemil (2007), 'İltica Konusunda Türkiye'nin Yol Haritası: Ulusal Eylem Planı', *AÜHFD*, 56(4).

Guild, Elspeth (2005), "Changing the ground rules, reframing immigration, asylum and security in the European Union", in Amy Verdun and Osvaldo Croci (eds.), *The European Union in the Wake of Eastern Enlargement*, Manchester: Manchester University Press.

Guild, Elspeth and Carol Harlow (2001, eds.), *Implementing Amsterdam: Immigration and Asylum Rights in EC Law*, Oxford: Hart Publishing.

Guild, Elspeth and Sergio Carrera (2011), 'Towards and Internal (In)security Strategy for the EU', *CEPS*, Brussels.

Guild, Elspeth et al (2007, eds.) *Whose Freedom, Security and Justice? EU Immigration and Asylum Law and Policy. Essays in European law*, Hart Publishing, Oxford and Portland

Guild, Elspeth et al (2008), 'The Changing Dynamics of Security in an Enlarged European Union?', *CEPS Research Papers*, No.12.

*Guild*, Elspeth et al. (2009, eds.), *Illiberal Liberal States: Immigration, Citizenship and Integration in the EU*, Aldershot: Ashgate.

Haddad, Emma (2008), *The Refugee in International Society: Between Sovereigns*, Cambridge: Cambridge University Press.

Hansen, Lene (1997), "A Case for Seduction? Evaluating the Poststructuralist Conceptualisation of Security", *Cooperation and Conflict*, 32(4): 369-397.

Hansen, Lene (2000), "The Little Mermaid's Silent Security Dilemma: The Absence of Gender in the Copenhagen School", *Millennium*, 29 (2).

Hayes, Ben and Tony Bunyan (2003), 'Migration, Development and the EU Security Agenda', available at <http://www.statewatch.org/news/2003/sep/bhtb/pdf>

Hayter, Teresa (2000), *Open Borders: The Case Against Immigration Controls*, London: Pluto Press.

Heikki Mattila (2000), 'Protection of Migrants' Human Rights: Principles and Practice', *International Migration*, 38 (6).

Heisler, Martin and Zig Layton-Henry (1993), 'Migration and the link between social and societal security' in Ole Wæver et al., *Identity, Migration and the New Security Agenda in Europe*, New York: St Martin's Press.

Henderson, Karen (2005), 'Introduction', Karen Henderson (ed.), *The Area of Freedom, Security and Justice in the Enlarged Europe*, New York: Palgrave.

Hindess, Barry (1996a) 'Liberalism, Socialism and Democracy: Variations on a Governmental Theme' in: Barry A, Osborne T, and Rose N (eds) *Foucault and Political Reason*, London: UCL Press.

Hindess, Barry (1996b), *Discourses of Power: From Hobbes to Foucault*, Oxford: Blackwell Publishers.

Hindess, Barry (2004), 'Liberalism- what's in a name?' in Larner, Wendy and William Walters (2004), *Global Governmentality: Governing International Spaces*, New York: Routledge.

Hirschon, Rene (2003), 'Unmixing Peoples' in the Aegean Region', in Hirschon, R. (ed.) *Crossing the Aegean: An Appraisal of the 1923 Compulsory Population Exchange Between Greece and Turkey*, Oxford: Berghahn.

Hix, Simon (2005), *The Political System of the EU*, London: Palgrave Macmillan.

Hobbing, Peter (2005), 'Integrated Border Management at the EU Level', *CEPS Working Documents*, No: 227.

Hom, Andrew R.(2008), 'Critical Perspectives on Biometrics on Iraq', *Military Review*, January-February.

Hooper, B. (2004), 'Ontologizing the borders of Europe', in Olivier Kramsh and Barbara Hooper (eds.), *Cross-Border Governance in the European Union*, London: Routledge.

Hoy, David (ed. 1986), *Foucault; A Critical Reader*, Oxford: Basic Blackwell.

Huntington, Samuel (1993), "The Clash of Civilizations", *Foreign Affairs*, 72(3): 22-49.

Huysmans, Jef (1998), "Revisiting Copenhagen: Or, On the Creative Development of a Security Studies Agenda in Europe", *European Journal of International Relations*, 4 (4): 479-502.

Huysmans, Jef (2000a), 'Contested Community: Migration and the Question of the political in the EU' in Michael Williams and Morten Keltshrup (eds.), *International Relations Theory and European Integration*, London: Routledge.

Huysmans, Jef (2000b), 'The European Union and the Securitization of Migration', *Journal of Common Market Studies*, 38 (5).

Huysmans, Jef (2006), *The Politics of Insecurity: Fear, Migration and Asylum in the EU*, London: Routledge.

Huysmans, Jef et al. (2006, eds.), *The Politics of Protection: Sites of Insecurity and Political Agency*, London: Routledge.

Hyndman J. (2008), 'Conflict, Citizenship, and Human Security: Geographies of Protection', in Deborah Cowen and Emily Gilbert (eds), *War, Citizenship, Territory*, New York: Routledge.

Jessop, Bob (2007) From micro-powers to governmentality: Foucault's work on statehood, state formation, statecraft and state power. *Political Geography* 26(1): 34–40.

Jorry, Helene (2007), 'Construction of a European Institutional Model for Managing Operational Cooperation at the EU's External Borders: Is the FRONTEX Agency a Decisive Step Forward?', *CEPS CHALLENGE Paper*, No. 6, available at <http://aei.pitt.edu/7406/>

Joseph, Jonathan (2009) 'Governmentality of what? States, Populations and International Organisations'. *Global Society* 23(4): 413–427.

Kagan, Robert (2003), *Power and Paradise: America and Europe in the New World Order*, London: Atlantic Books

Kaldor, Mary (2006), *New and Old Wars*, Cambridge: Polity Press.

Kale, Basak (2005), *The Impact of Europeanization on Domestic Policy Structures: Asylum and Refugee Policies in Turkey's Accession Process to the European Union*, Unpublished PhD Thesis, Middle East Technical University.

Kane, Hal (2002), 'Leaving Home: The Flow of Refugees' in Maryann Cusimano Love (ed.), *Beyond Sovereignty: Issues for a Global Agenda*, London: Thomson.

Kaya, Ibrahim (2009), 'Reform in Turkish Asylum Law: Adopting the EU Acquis', *CARIM Research Reports*, 2009/16.

Keridis, Dimitris and Constanrine Arvanitopoulos (2011), 'Turkey and the Identity of Europe: Contemporary Identity Politics in the European Frontier', *Harvard International Review*, 6 January 2011, available at <http://hir.harvard.edu/turkey-and-the-identity-of-europe>

Keser, Hasan (2006), 'Justice and Home Affairs: Europeanization of Turkish Asylum and Immigration Policy in the Light of the Central and Eastern European Experience', *Ankara Review of European Studies*, 5(3): 115-130.

Keukeleire S. and Jennifer MacNaughtan (2008), *The Foreign Policy of the European Union*, New York: Palgrave.

Kılıç, İsmail and Adem Akman (2010), 'AB'de Entegre Sınır Yönetiminin Gelişimi ve AB Sürecinde Türkiye'nin Entegre Sınır Yönetimine Geçiş Çalışmaları', *Türk İdare Dergisi*, 467.

Kirchner, Emil (2007), 'Regional and Global Security: Changing threats and institutional responses', in *Global Security Governance: Competing perceptions of security in the 21<sup>st</sup> century*, London: Routledge.

Kirchner, Emil and James Sperling (2007a), *EU Security Governance*, Manchester: Manchester University Press.

Kirchner, Emil and James Sperling (2007b), *Global Security Governance: Competing perceptions of security in the 21<sup>st</sup> century*, London: Routledge.

Kirişçi, Kemal (2000), 'Disaggregating Turkish Citizenship and Immigration Practices', *Middle Eastern Studies*, 36(3): 1-22.

Kirişçi, Kemal (2003), 'Turkey: A Transformation from Emigration to Immigration', *Migration Information Source*, available at <http://www.migrationinformation.org/Feature/print/cfm?ID=176>

Kirişçi, Kemal (2004a), 'Reconciling Refugee Protection with Efforts to Combat Irregular Migration: the Case of Turkey and the European Union', *Global Migration Perspectives*, No: 11.

Kirişçi, Kemal (2004b), *The Domestic Politics of Negotiating Pre-Accession: Challenges and Consequences of EU-Turkish Relations*,

Paper presented at the Second Pan-European Conference Standing Group on EU Politics Bologna, 24-26 June 2004

Kirişçi, Kemal (2007a), “Border Management and EU-Turkish Relations: Convergence or Deadlock”, *CARIM Research Report*, 2007/03.

Kirişçi, Kemal (2007b), *The Limits of Conditionality and Europeanization: Turkey’s Dilemmas in Adopting the EU acquis on Asylum*, Draft Paper for the EUSA Tenth Biennial International Conference, Montreal, 17-19 May 2007.

Kirişçi, Kemal (2008), ‘Managing Irregular Migration in Turkey: A Political-Bureaucratic Perspective’, *CARIM Analytical and Synthetic Notes*, 2008/61.

Kirişçi, Kemal (2009), ‘Harmonization of Migration Policy and Turkey’s Security Challenges’, *EDAM Discussion Paper Series*, 2009/01.

Klein, Naomi (2003) ‘*The Rise of the Fortress Continent*’, *Nation*, (276) 4.

Koff, Harlan (2002), ‘NGO’s Versus Political Parties: Combatting Xenophobia and Racism in Western Europe’ in Paul van Tongeren et al. (eds.) *Searching for Peace in Europe and Eurasia: an overview of conflict prevention and peacebuilding activities*, London: Lynne Rienner.

Köktaş, Arif and Omer Yılmaz (2010), ‘Avrupa Birliği’nde Entegre Sınır Yönetimi Modeli: Schengen Sözleşmesinden Stockholm Programına’, *Polis Bilimleri Dergisi*, 12(2).

Kölliker, Alkuin (2006), *Flexibility and European Unification: The Logic of Differentiated Integration*, Oxford: Rowman and Littlefield Publisher.

Koser, Khalid (2001), ‘New Approaches to Asylum’, *International Migration*, 39 (6).

Kostakopoulou, D. (2004), “Irregular Migration and Migration Theory: Making State Authorisation Less Relevant” in Barbara Bogusz et al, *Irregular Migration and Human Rights: Theoretical*,

*European and International Perspectives*, Leiden: Martinus Nijhoff Publishers.

Kostakopoulou, Theodora (2001), *Citizenship, Identity and Immigration in the European Union*, Manchester: Manchester University Press.

Krause, Keith and Williams, Michael C. (1997, eds.), *Critical Security Studies; Concepts and Cases*. London: UCL Press.

Lahav, Gallya (2004), *Immigration and Politics in the New Europe*, Cambridge: Cambridge University Press.

Lapid, Yosef (1989) 'The Third Debate', *International Studies Quarterly* 33 (3): 235-254 .

Larner, Wendy and William Walters (2004), *Global Governmentality: Governing International Spaces*, New York: Routledge.

Lash, S. and B. Wynne (1992) 'Introduction', in Ulrich Beck , *Risk Society: Towards a New Modernity*, London: Sage.

Lavenex, Sandra (1999), *Safe Third Countries: Extending the EU Asylum and Immigration Policies to Central and Eastern Europe*, New York: Central European University Press.

Lavenex Sandra (2001), *The Europeanization of Refugee Policies: between human rights and internal security*, Burlington: Ashgate.

Lavenex, Sandra (2002), 'The Europeanization of Refugee Policies: Normative Challenges and Institutional Legacies', *JCMS*, 39(5). Lavenex

Lavenex, Sandra (2004), 'EU external governance in 'wider Europe'', *Journal of European Public Policy*, 11(4): 680-700.

Lavenex, Sandra (2005), "Governing in an Enlarged 'Area of Freedom, Security and Justice', in Amy Verdun and Osvaldo Croci (eds.), *The European Union in the Wake of Eastern Enlargement*, Manchester: Manchester University Press.

Lavenex, Sandra (2007), 'The External Face of Europeanization: Third Countries and International Organizations', in Andreas Ette and Thomas Faist (eds.), *The Europeanization of National Policies and Politics of Immigration*, London: Macmillan.

Lavenex, Sandra and Emek Ucarer (2002), *Migration and the Externalities of European Integration*, Lanham: Lexington Books.

Lavenex, Sandra and Emek Uçaner (2004), 'The External Dimension of Europeanization: The Case of Immigration Policies', *Cooperation and Conflict*, 39 (4): 417-443.

Lavenex, Sandra and Nicole Wichmann (2009), 'The External Governance of EU Internal Security', *European Integration*, 31(1): 83-102.

Lavenex, Sandra and William Wallace (2005), 'Justice and Home Affairs' in Helen Wallace et al (eds.), *Policy Making in the European Union*, Oxford: Oxford University Press.

Leander Anna and van Munster, Rens (2007) 'Private security contractors in the debate about Darfur: Reflecting and reinforcing neo-liberal governmentality', *International Relations* 21(2): 201–216.

Leander, Anna and van Munster, Rens (2006), 'Neo-Liberal Governmentality of Contemporary Security: Understanding the security contractors in Darfur and EU immigration control', *Copenhagen Business School*, Working Paper, No: 81.

Lemert Charles and Garth Gillan (1982), *Michel Foucault: Social Theory and Transgression*, New York: Columbia University Press.

Lemke, Thomas (2007), "An Indigestible Meal? Foucault, Governmentality and State Theory", *Distinktion: Scandinavian journal of Social Theory*, No: 15, available at <http://www.thomaslemkeweb.de/publikationen/IndigestibleMealfinal5.pdf> (accessed March 2011).

Liberatore, Angela (2005), "Balancing Security and Democracy: The Politics of Biometric Identification in the European Union", *EUI Working Paper*, RSCAS No.2005/30.

Lindsrom, Channe (2005), 'European Union Policy on Asylum and Immigration: Addressing the Root Causes of Forced Migration: A Justice and Home Affairs Policy of Freedom, Security and Justice', *Social Policy and Administration*, 36 (6), pp. 587-605.

Lipschutz, Ronnie (1995), *On Security*, New York: Columbia University Press.

Loader, Ian and Neil Walker (2007), *Civilizing Security*, Cambridge: Cambridge University Press.

Lodge, Juliet (2006), Communicating (in)Security: A Failure of Public Diplomacy?, *CEPS Research Paper No.3*

Loescher, Gil (1992), 'Refugee Movements and International Security', *Adelphi Papers*, No. 268.

Loescher, Gil (1993), *Beyond Charity: International Cooperation and the Global Refugee Crisis*, Oxford: Oxford University Press.

Loescher, Gil and James Milner (2003), 'The Missing Link: The need for Comprehensive Engagement in Regions of Refugee Origin', *International Affairs*, 79 (3).

Love, Maryann Cusimano (2002), 'Mind the Gaps: Institutions Meet Global Problems' in Cusimano Love (ed.), *Beyond Sovereignty: Issues for a Global Agenda*, London: Thomson.

Lukes, Steven (2005), *Power: A Radical View*, London: Palgrave Macmillan.

Malkki, Liisa (1992) 'National Geographic: The Rooting of Peoples and the Territorization of National Identity Among Scholars and Refugees', *Cultural Anthropology*, 7 (1): 24-44.

Malkki, Liisa (1995), 'Refugees and Exile: From "Refugee Studies" to the National Order of Things', *Annual Review of Anthropology*, 24: 496.

Marfleet, Philip (2006), *Refugees in a Global Era*, New York: Palgrave Macmillan.

- Mattila, Heikki (2000), 'Protection of Migrants' Human Rights: Principles and Practice', *International Migration*, 38 (6).
- McDonald, M. (2002), 'Human Security and the Construction of Security', *Global Society*, 16(3): 177-295.
- McKay, Sonia (2009, ed.), *Refugees, Recent Migrants and Employment: Challenging Barriers and Exploring Pathways*, London: Routledge.
- McSweeney, Bill (1996), "Identity and Security: Buzan and the Copenhagen School", *Review of International Studies*, 22(1): 81-93.
- Merlinger Michael and Rasa Ostrauskaite (2006), *European Union Peacebuilding and Policing*, Oxon: Routledge.
- Mills, Sara (2003), *Michel Foucault*, London: Routledge.
- Mitsilegas, Valsamis (2007), 'Border Security in the European Union: Towards Centralised Controls and Maximum Surveillance' in Elspeth Guild et al., *Whose Freedom, Security and Justice? EU Immigration and Asylum Law and Policy. Essays in European law*, Hart Publishing, Oxford and Portland
- Monar, Jörg (2000), 'Justice and Home Affairs in a Wider Europe: The Dynamics of Inclusion and Exclusion', *ESRC 'One Europe or Several' Programme Working Paper 07/00*.
- Monar, Jörg (2001a), 'Justice and Home Affairs After Amsterdam: The Treaty Reforms and The Challenge of Their Implementation', in Jörg Monar and Wolfgang Wessels (eds.), *The European Union After The Treaty of Amsterdam*, London: Continuum.
- Monar, Jörg (2001b), 'The Dynamic of Justice and Home Affairs: Laboratories, Driving Factors and Costs', *Journal of Common Market Studies*, 39 (4): 747- 764.
- Monar, Jörg (2002), 'Justice and Home Affairs', *JCMS*, 40, Annual Review: 121-136.
- Monar, Jörg (2003), 'Justice and Home Affairs', *JCMS*, 41, Annual Review: 119-135.

Monar, Jörg (2004), 'Justice and Home Affairs', *JCMS*, 42, Annual Review: 117-133.

Monar, Jörg (2005), 'Justice and Home Affairs', *JCMS*, 43, Annual Review: 131-146.

Monar, Jörg (2006a), 'Cooperation in the Justice and Home Affairs Domain: Characteristics, Constraints and Progress', *European Integration*, 28(5): 495-509.

Monar, Jörg (2006b), 'Justice and Home Affairs', *JCMS*, 44, Annual Review: 101-117.

Monar, Jörg (2007a), 'Common Threat and Common Response? The European Union's Counter-Terrorism Strategy and its Problems', *Government and Opposition*, 42(3): 292-313.

Monar, Jörg (2007b), 'Justice and Home Affairs', *JCMS*, 45, Annual Review: 107-124.

Monar, Jörg (2008), 'Justice and Home Affairs', *JCMS*, 46, Annual Review: 109-126.

Monar, Jörg and Monica Den Boer (2002), '11 September and the Challenge of Global Terrorism to the EU as a Security Actor', *JCMS*, 40 (Annual Review): 11-28.

Morris, Lydia (1997), 'Globalization, migration and the nation-state: the path to a post-national Europe', *British Journal of Sociology*, 48 (2).

Moussis, Nicholas (2004), *Avrupa Birliği Politikalarına Giriş Rehberi*, İstanbul: Mega.

Mutimer, D (2007), 'Critical Security Studies: A Schismatic History', in Alan Collins (ed.), *Contemporary Security Studies*, Oxford: Oxford University Press.

Neil Nugent (2004,ed), *European Union Enlargement*, Basingstoke and New York: Palgrave Macmillan.

Niemann, Arne (2008), 'Dynamics and Countervailing Pressures of Visa, Asylum and Immigration Policy Treaty Revision: Explaining

Change and Stagnation from the Amsterdam IGC to the IGC of 2003-04', *JCMS*, 46 (3), p 565.

Norman K. Denzin and Yvonna S. Lincoln (eds.), 2005, *The Sage Handbook of Qualitative Research*, London: Sage Publication.

Nugent, Neil (2003, fifth edition), *The Government and politics of the European Union*, London: Palgrave Macmillan.

O'Malley (2008), 'Governmentality and Risk', in *Social Theories of Risk and Uncertainty: An Introduction*, Oxford: Blackwell Publishing.

Occhipinti, John D (2007), 'Justice and Home Affairs: Immigration and Policing', in Katja Webert et al. (eds), *Governing Europe's Neighbourhood*, Manchester: Manchester University Press.

OMID Advocates for Human Rights (2010), *Report on the Situation of Iranian Refugees in Turkey*, Berkeley.

Ong, A. (2006), *Neoliberalism as Exception*, London: Duke University Press.

OXFAM (2005), *Foreign Territory: The Internationalization of EU Asylum Policy*, Oxford: OXFAM.

Özbilgen, E. (2003), *Bütün Yönleriyle Osmanlı: Adabı-ı Osmaniye*, İstanbul: İz Yayıncılık.

Özcan, Bulent (2010), Training Notes, TOBB-EUCG Training on Project Implementation Training, May-June 2010, Ankara.

Özcan, Mehmet (2005), 'Turkey's Possible Influence on the Internal Security of the European Union: The Issue of Illegal Migration', in Sedat Laciner et al, *European Union with Turkey: The Possible Impact of Turkey's Membership on the EU*, Ankara: ISRO Publication.

Özgür, Nurcan and Yeşim Özer (2010), *Türkiye'de Sığınma Sisteminin Avrupalılaştırılması*, İstanbul: Derin Yayınları.

Pastore, Ferruccio (2001) 'Reconciling the prince's two 'arms': Internal-external security policy coordination in the European Union', *EU-ISS Occasional Paper* 30.

Patomaki, Heikki (2008), *The Political Economy of Global Security: War, future crises and changes in global governance*, London: Routledge.

Payne, Michael (1997), *Reading Knowledge: An Introduction to Barthes, Foucault and Althusser*, Oxford: Blackwell.

Phuong, Catherine (2003), 'Enlarging 'Fortress Europe': EU Accession, Asylum, and Immigration in Candidate Countries', *ICLQ*, 52, July: 641-664.

Pickett, B. (2005), *On the Use and Abuse of Foucault for Politics*, Oxford: Lexington Books..

Poulain, Florence (2004), 'Justice and Home Affairs' in Jorge Juan Fernandez Garcia et al. (eds.), *The Student's Guide to European Integration*, Oxford: Blackwell.

Preston Christopher (1997), *Enlargement and Integration in the European Union*, London: Routledge.

Rabinow, Paul (1991, ed.), *The Foucault Reader: an Introduction to Foucault's Thought*, London: Penguin Books.

Rajaram, Prem Kumar and Carl Grundy-Warr (2004), 'The Irregular Migrant as Homo Sacer: Migration and Detention in Australia, Malaysia and Thailand', *International Migration*, 42 (1).

Rattansi, Ali and Sallie Westwood (eds.) (1994), *Racism, Modernity and Identity*, Oxford: Blackwell Publishers.

Rehn, Olli (2006), *Europe's Next Frontiers*, Baden-Baden: Polity.

Reus-Smith, C. (1992), 'Realist and Resistance Utopias: Community, Security and Political Action in the New Europe', *Millennium: Journal of International Studies*, 21(1): 1-28.

Rose, Nikolas (1996), "Governing "advanced" liberal democracies" in Barry, A. et al. (eds.), *Foucault and Political*

*Reason: Liberalism, Neo-Liberalism and Rationalities of Government*, London: UCL Press.

Rudge, P. (1992), 'The Asylum Dilemma- Crisis in the Modern World: A European Perspective' in Gil Loescher (ed.), *Refugees and the Asylum Dilemma in the West*, Pennsylvania: The Pennsylvania State University Press.

Rudolph, Christopher (2002), 'Globalization and Security: Migration and Evolving Conceptions of Security in Statecraft and Scholarship', Unpublished Paper, University of Southern California.

Ruggie, John (1993), 'Territoriality and Beyond: Problematizing modernity in international relations', *International Organization*, 47 (1): 139-74.

Rumelili, Bahar (2004), 'Constructing Identity and Relating to Difference: Understanding the EU's Mode of Differentiation', *Review of International Studies*, 30: 27-47.

Sales, Rosemary (2007), *Understanding Immigration and Refugee Policy: Contradictions and Continuities*, Bristol: Policy Press.

Scheurich, James and Kathryn Bell McKenzie (2005), 'Foucault's Methodologies: Archeology and Genealogy' in Norman K. Denzin and Yvonna S. Lincoln (eds.), *The Sage Handbook of Qualitative Research*, London: Sage.

Schimmelfenning, Frank and Ulrich Sedelmeier (2004), "Governance by Conditionality: EU rule transfer to the candidate countries of Central and Eastern Europe", *Journal of European Public Policy*, 11 (4): 669-687.

Schimmelfenning, Frank (2006), 'The Process of Enlargement: Problems, Interests and Norms', in Jeremy Richardson (ed. 3<sup>rd</sup> edition), *EU: Power and Policy Making*, New York: Routledge.

Schmidt, Sandra (1999), 'Immigration Policy and New Ethnic Minorities in Contemporary Germany' in Karl Cordell (ed.), *Ethnicity and Democratisation in the New Europe*, London: Routledge.

- Sending, Ole Jacob and Iver B. Neumann (2006), "Governance to Governmentality: Analyzing NGOs, States, and Power", *International Studies Quarterly*, 50: 651-672.
- Shaw, Martin (1993), 'There is No Such Thing as Society: Beyond Individualism and Statism in International Security Studies', *Review of International Studies*, Vol. 19: 159-175.
- Sheridan, Alan (1980), *Michel Foucault: the Will to Truth*, London: Routledge.
- Simons, Jon (1995), *Foucault and the Political*, Routledge, London.
- Smart, Berry (1983), *Foucault, Marxism and Critique*, London: Routledge and Keagan Paul.
- Smith, Karen (2003), *European Union Foreign Policy In a Changing World*, Cambridge: Polity.
- Smith, Steve (1991), 'Mature Anarchy, Strong States and Security', *Arms Control*, Vol. 12, No. 3, pp. 325-339.
- Smith, Steve (1995), 'Self-Images of a Discipline: a genealogy of international theory', in Ken Booth and Steve Smith (eds.), *International Relations Theory Today*, London: Polity Press.
- Soysal, Yasemin Nuhoglu (1994), *Limits of Citizenship: Migrants and Postnational Membership in Europe*, Chicago: The University of Chicago.
- Stalker, Peter (2002), 'Migration trends and Migration Policy in Europe', *International Migration* 40 (5).
- Statewatch Analysis (2005), "SIS II: Fait Accompli? Construction of EU's Big Brother Database Underway", available at [www.statewatch.org](http://www.statewatch.org)
- Sterx, Steven (2004), *Curtailing the Comprehensive Approach: Governance Export in EU Asylum and Migration Policy*, Paper Presented at ECPR Joint Session of Workshops, Workshop 16, Uppsala, 13-18 April 2004.

Stivachtis, A. Yannis (2007), 'The EU as an International Actor: 'Civilian', 'Normative' or 'Military' Power?' in Yannis A. Stivachtis (ed.), *The State of European Integration*, Hampshire: Ashgate.

Suhrke, Astri and Aristide R. Zolberg (1999), 'Issues in Contemporary Refugee Policies', in Ann Bernsteing and Myron Weiner, *Migration and Refugee Policies: An Overview*, London: Pinter. .

Taner, Kılıç (2009), *Türk Hukuk Mevzuatında Mültecilerle İlgili Düzenlemeler*, available at [http://multeci.net/t\\_iltica\\_2.htm](http://multeci.net/t_iltica_2.htm)

Terriff, Terry et al. (1999), *Security Studies Today*, Cambridge: Polity Press.

Tilly, Charles (1990) *Coercion, Capital and European States AD 990- 1990*, Oxford: Blackwell.

Tilly, Charles (1996), 'Citizenship, Identity and Social History', in Charles Tilly (ed.), *Citizenship, Identity and Social History*, Cambridge: Press Syndicate of the University of Cambridge.

Torpey, John (2000), *The Invention of the Passport: Surveillance, Citizenship and the State*, Cambridge: Cambridge University Press.

Torpey, John and Jane Caplan (2001, eds.), *Documenting Individual Identity: Development of State Practices in the Modern World*, Princeton: Princeton University Press.

Tsoukala, Anastassia. (2005) 'Looking at Immigrants as Enemies', in Didier Bigo and Elspeth. Guild (eds), *Controlling Frontiers. Free Movement into and within Europe*, Aldershot: Ashgate

Tsoulakis, Loukas (2005), *What Kind of Europe*, Oxford: Oxford University Press.

Tulloch, John and Deborah Lupton (2003), *Risk and Everyday Life*, London: Sage.

Turton, David and Julia Gonzalez (2003, eds.), *Immigration in Europe: Issues, Policies and Case Studies*, Bilbao: University of Desoto.

Uçarer, Emek (2001), 'Managing Asylum and European Integration: Expanding Spheres of Exclusion?', *International Studies Perspective*, 2: 288-304.

Uçarer, Emek (2003), 'Justice and Home Affairs', in Michelle Cini (ed.), *European Union Politics*, Oxford: Oxford University Press.

Ülker, E. (2003), *Homogenizing A Nation: Turkish National Identity and Migration-Settlement Policies of the Turkish Republic (1923-1939)*, unpublished MSc. Thesis, İstanbul:Boğaziçi University.

Ülker, Erol (?), 'Assimilation of the Muslim Communities in the First Decade of the Turkish Republic (1923-1934)', *European Journal of Turkish Studies*, available at <http://www.ejts.org/document822/html>

UNHCR (2010), *UNHCR in Turkey: Facts and Figures*, Ankara: Anil Matbaacilik.

UNHCR and Turkish Ministry of Interior (2005), *Asylum and Migration Legislation*, Ankara: Başkent Matbaası.

UPSAM, (2009) 'Türk Sığınma Politikasının Avrupa Birliğine Harmonizasyonu Ş Zorluklar ve Olası Gelişmeler', available at <http://www.upsam.org.tr/tr2.html>

Valverde, Mariana (2007), 'Geneologies of European States: Foucauldian reflections', *Economy and Society*, 36 (1): 159-178.

Van Munster, Rens (2009), *Securitizing Immigration: The Politics of Risk in the EU*, New York: Palgrave Macmillan.

Van Munster, Rens and Anna Leander (2006), 'Private Security Contractors in Darfur: Reflecting and Reinforcing Neo-Liberal Governmentality', *Copenhagen Business School Working Paper*, No 82.

Van Selm, J (2007), 'The Europeanization of Refugee Policy', in Susan Kneebone and Felicity Rawls (eds.), *New Regionalism and Asylum Seekers; Challenge Ahead*, Oxford: Berghahn Books.

Vogler, John (2002), 'The European Union and September 11<sup>th</sup>' in Bulent Gokay and R.J.B. Walkers (eds.), *11 September 2001 : War, Terror and Judgement*, Staffordshire: Keele European Research Centre.

Wæver, O (1993), 'Societal Security: the Concept' in Buzan, B., Kelstrup, M., Lemaitre, P., (eds.) *Identity, Migration and the New Security Agenda in Europe*, Palgrave Macmillan.

Wæver, O. (1995), "Securitization and Desecuritization", in Ronnie Lipschutz (ed.), *On Security*, New York: Columbia University Press.

Wæver, O. et al. (1993), *Identity, Migration and The New Security Agenda in Europe*. London: Pinter Publishers.

Wæver, Ole (1996), 'The Rise and Fall of the Inter-Paradigm Debate', in Ken Booth et al (eds), *International Theory: Positivism and Beyond*, Cambridge: Cambridge University Press.

Wæver, Ole (2004) 'Aberystwyth, Paris, Copenhagen: New Schools in Security Theory and their Origins between Core and Periphery' , *Paper presented at International Studies Association Conference, Montreal, 17-20 March*

Wæver, Ole and Carsten Bagge Laustsen (2000), 'In Defense of Religion; Sacred Referent Objects for Securitization' *Millennium*, 29 (3).

Walker, Neil. (2004), *Europe's Area of Freedom, Security and Justice*, Oxford: Oxford University Press.

Walker, R. J. (1997), 'The Subject of Security' in Keith Krause and Michael Williams (eds.), *Critical Security Studies*, Minneapolis: University of Minnesota Press.

Walt, Stephen M. (1991), 'The Renaissance of Security Studies', *International Studies Quarterly*, 35 (2): 211-239.

Walters, William (2008), 'Anti-Illegal Immigration Policy: The EU Case', in Gabriel and Pellerin (eds.), *Governing International Labour Migration*, London: Routledge.

Walters, William and Jens Henrik Haahr (2005), *Governing Europe: Discourse, Governmentality and European Integration*, London: Routledge.

Walzer, Michael (2000, first published in 1983), 'Membership', in Andrew Linklater (ed.), *International Relations: Critical Concepts in Political Science*, London: Routledge.

Webber, M. (2007), *Inclusion Exclusion and the Governance of European Security*, Manchester: Manchester University Press.

Wheeler, Nicholas (2002), *Saving Strangers: Humanitarian Intervention in International Society*, Oxford: Oxford University Press.

Williams, Michael (1997), "The Institution of Security: Toward a New Theory of Security Organizations", *Cooperation and Conflict*, 32 (3): 287-307.

Wyn Jones, Richard (1999), *Security, Strategy and Critical Theory*, London: Lynne Rienner

Zaiotti, Ruben (2007), "Revisiting Schengen: Europe and the Emergence of a New Culture of Border Control", *Perspectives on European Politics and Society*, 8(1): 31-54.

Zielonka, Jan (2006), *Europe as Empire*, Oxford: Oxford University Press.

Zolberg, Aristide R. et al, (1989), *Escape From Violence: Conflict and the Refugee Crisis in the Developing World*, Oxford: Oxford University Press.

## OFFICIAL DOCUMENTS

*Consolidated versions of the Treaty on European Union and the Treaty on the Functioning of the European Union*, Official Journal C 83 of 30.3.2010.

*Convention Implementing the Schengen Agreement* (1990), 19.06.1990

Council of Europe (2000), *Towards a Migration Management Strategy*, CDMG(2000) 11 rev, Strasbourg.

European Council (2001), *Decision on the Principles, Priorities, Intermediate Objectives and Conditions Contained in the Accession Partnership with Turkey*, Official Journal of the European Union, (2001/235/EC), 24.03.2001

European Commission (1998), *European Strategy for Turkey* Brussels, 04.03.1998.

European Commission (2000a), *Communication from the Commission to The Council and the European Parliament on a Community Immigration Policy*, Brussels, 22.11.2000.

European Commission (2000b), *Communication from the Commission to The Council and the European Parliament Towards a Common Asylum Procedure and a Uniform Status, Valid Throughout the Union, for Persons Granted Asylum*, Brussels, 22.11.2000.

European Commission (2001), *Communication from the Commission to The Council And the European Parliament on a Common Policy on Illegal Immigration*, Brussels, 15.11.2001

European Commission (2002), *Communication From the Commission to the Council and the European Parliament Towards Integrated Management of the External Borders of the Member States Of The European Union*, Brussels, 7.5.2002.

European Union (2002), *Plan for the Management of the External Borders of the Member States of the European Union*, 14 June 2002, 9834/1/02 FRONT 55 COMIX 392 REV 1, available at: <http://www.unhcr.org/refworld/docid/3f4e3c51d.html> [accessed 11 March 2011]

European Commission (2003a), *Communication: Wider Europe-Neighbourhood: A New Framework for Relations with our Eastern and Southern Neighbours*, COM (2003) 104, March 2003.

European Commission (2003b), *Communication From The Commission: Paving the way for a New Neighbourhood Instrument* (COM(2003) 393), Brussels, 1.7.2003

European Commission (2003c), *Communication on The Development of a Common Policy on Illegal Immigration, Smuggling and Trafficking of Human Beings, External Borders and the Return of illegal Residents* COM(2003) 323. Brussels, 3.6.2003.

European Commission (2004), *Communication from the Commission to the Council European Neighbourhood Strategy Paper*, Brussels, 12.5.2004.

European Commission (2005a), *Communication from the Commission A Strategy on the External Dimension of Area of Freedom, Security and Justice*, COM(2005) 491, Brussels, 12.10.2005.

European Commission (2005b), *Communication from the Commission to the Council and the European Parliament - The Hague Programme: Ten priorities for the next five years The Partnership for European renewal in the field of Freedom, Security and Justice*, Brussels, 10.5.2005.

European Commission (2005c), *Communication from the Commission to the Council and the European Parliament Priority actions for responding to the challenges of migration: First follow-up to Hampton Court*, Brussels, 30.11.2005.

European Commission (2005d), *Proposal for a Council Decision on the establishment, operation and use of the second generation Schengen informationsystem (SIS II)*, Brussels, 31.5.2005.

European Commission (2006), *Communication From The Commission To The Council And The European Parliament: The Global Approach to Migration one year on: Towards a Comprehensive European Migration Policy*, Brussels, 30.11.2006.

European Commission (2007), *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: the European Interest: Succeeding in the Age of Globalisation, Contribution of the Commission to the October*

*Meeting of Heads of State and Government (COM(2007) 581 final), Brussels, 3.10.2007*

European Commission (2007), *Decision C(2007)1835 of 30/04/2007 on a Multi-annual Indicative Planning Document (MIPD) 2007-2009 for Turkey.*

European Commission (2008), *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions Strengthening The Global Approach To Migration: Increasing Coordination, Coherence And Synergies, Brussels, 8.10.2008*

European Commission (2009), *Decision C(2009)5041 on a Multi-annual Indicative Planning Document (MIPD) 2009-2011 for Turkey, 29 June 2009.*

European Commission (2009), *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, Brussels.02.12.2009.*

European Commission (2001), *Communication from the Commission to the Council and the European Parliament on a Common Policy on Illegal Immigration, Brussels, 15.11.2001.*

European Commission (2006), *Communication from the Commission on Policy Priorities in the fight against illegal; immigration of third country nationals, Brussels, 19.7.2006.*

European Commission (2007), *Communication from the Commission The European Interest: Succeeding In The Age Of Globalization, Brussels, 3.10.2007*

European Commission (2010), *Communication from the Commission to the Council and the European Parliament on The EU Internal Security Strategy in Action: Five Steps Towards a More Secure Europe, Brussels, 22.11.2010.*

European Communities (1990), *Dublin Convention determining the State Responsible for Examining Applications for Asylum Lodged in one of the Member States of the European Communities, 15.06.1990, Dublin, entry into force 01.09.1997, Official Journal, No.254, 19.08.1997.*

European Council (1985), *Declaration, Luxembourg, 9.09.1985*

European Council (1992), *Presidency Conclusions*, Edinburgh, 11-12.12.1992

European Council (1998), *Presidency Conclusions*, Vienna, 11-12.1998.

European Council (1999a), *Presidency Conclusions*, Helsinki, 10-11.12.1999.

European Council (1999b), *Presidency Conclusions*, Tampere, 15-16.10.1999.

European Council (1999c), *Presidency Conclusions*, Laeken, 14-15.10. 2001

European Council (2002a), *Presidency Conclusions*, Seville, 21-22.06.2002.

European Council (2002b), *Presidency Conclusions*, Brussels, 16-17.06.2005.

European Council (2000a), *Council Decision*, Establishing a European Refugee Fund, 28.09.2000, (2000/596/EC)

European Council (2000b), *Regulation (EC) No 2725/2000*

European Council (2001a), *Council Directive*, ‘Minimum Standards for Giving Temporary Protection in the Event of a Mass Influx of Displaced Persons and on Measures Promoting a Balance of Efforts Between Member States in Receiving Such Persons and Bearing the Consequences’, No. 2001/55/EC, 20.07.2001

European Council (2001b), *Directive 2001/51/EC Supplementing the Provisions of Article 26 of the Convention Implementing the Schengen Agreement of 14 June 1985, 9 August 2001*, Official Journal of the European Union, L 187/45, 10 July 2001.

European Council (2001c), *Decision on the Development of the Second generation Schengen Information System*, 6 December 2001

European Council (2001d), *Regulation (EC) No 2424/2001 of 6 December 2001*

European Council (2002a), *Regulation (EC) No 407/2002 of 28 February 2002 laying down certain rules to implement Regulation (EC) No 2725/2000 concerning the establishment of "Eurodac" for the comparison of fingerprints for the effective application of the Dublin Convention Regulation 407/2002*, Official Journal L 062 , 05/03/2002 P. 0001 - 0005

European Council (2002b), *Decision on Adopting an Action Programme for Administrative Cooperation in the Fields of External Borders, Visas, Asylum and Immigration (ARGO Programme)*, No. (2002/463/EC), 13.06.2002

European Council (2002d), *Declaration on 'Safe Third Countries'*, No.15067/02 Asile No. 76, 28.11. 2002

European Council (2002e), *Plan for the Management of the External Borders of the Member States*, Brussels, 13 June 2002.

European Council (2003a), *Decision on the Principles, Priorities, Intermediate Objectives and Conditions Contained in the Accession Partnership with Turkey*, Official journal of the European Union, (2003/398/EC), 12.06.2003

European Council (2003b), *Regulation No 343/2003 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 L 050 , 25/02/2003.

European Council (2004a), *The Hague Programme for Strengthening Freedom, Security and Justice in the European Union*, Hague, 5 November 2004.

European Council (2004b), *Decision Establishing the Visa Information System (VIS)*, Official Journal L 213/5 15.6.2004.

European Council (2004c), *Directive 2004/82/EC On the Obligation of Carriers to Communicate Passenger Data*, Official Journal, OJ L 261 of 6 August 2004

European Council (2006), *Decision on the Principles, Priorities, and Conditions Contained in the Accession Partnership with Turkey*, Official Journal of the European Union, (2006/35/EC), 26.01.2006

European Council (2008), *Decision on the Principles, Priorities, and Conditions Contained in the Accession Partnership with Turkey*, Official Journal of the European Union, (2008/157/EC), 26.02.2008

European Council (2009) *Presidency Conclusions*, Stockholm 10-11.12. 2009

European Council (2010), *The Stockholm Programme- An open and secure Europe serving and protecting citizens*, Official Journal of the European Union C 115/27. 04.05.2010.

*European Security Strategy*, Brussels, 12 December 2003.

Turkish Republic Ministry of Interior (2005), *National Action Plan for Asylum and Immigration*, General Directorate of Security, 17.01.2005, No.B.05.1.EGM.013.03.02.

Turkish Republic Ministry of Interior (2006), *Circular*, 22 June 2006, No: 57.

*Mülteci Misafirhaneleri Yönetmeliği*, TC Resmi Gazete 29.04.1983

*Official Gazette of the Turkish Republic (T.C. Resmi Gazete)* (1999), Council of Ministers Decision amending the Art.4 of the Bylaw on the Procedures and the Principles Related to Mass Influx and Foreigners Arriving in Turkey either as Individuals or in Groups Wishing to Seek Asylum from a Third Country, Official Gazette no: 22217, 13.01.1999

*Official Gazette of the Turkish Republic (T.C. Resmi Gazete)* (1994), Bylaw on the Procedures and the Principles Related to Mass Influx and Foreigners Arriving in Turkey either as Individuals or in Groups Wishing to Seek Asylum from a Third Country (Türkiye'ye İltica Eden veya Başka Bir Ülkeye İltica Etmek Üzere Türkiye'den İkamet İzni Talep Eden Münferit Yabancılar ile Topluca Sığınma Amacıyla Sınırımıza Gelen Yabancılara ve Olabilecek Nüfus Hareketlerine Uygulanabilecek Usul ve Esaslar Hakkında Yönetmelik), No: 22217, 30.11.1994

*Official Gazette of the Turkish Republic (T.C. Resmi Gazete)* (2008), Turkish National Program on the Adoption of EU Acquis Communitaire, No. 27097 , 31.08.2008

*Official Gazette of the Turkish Republic (T.C. Resmi Gazete)* (2003), Turkish National Program on the Adoption of EU Acquis Communitaire, No.25178, 24.07.2003

*Official Gazette of the Turkish Republic (T.C. Resmi Gazete)* (2001), Turkish National Program on the Adoption of EU Acquis Communautaire, No. 24352, 27.03.2001

*Official Gazette of the Turkish Republic (T.C. Resmi Gazete)* (2010), Circular, No. 2010/15 , 26.05.2010

*Official Gazette of the Turkish Republic (T.C. Resmi Gazete)* (2010), Circular (Mülteci Misafirhaneleri Genelgesi), No.18032, 29.04.1983

Reflection Group (1995), *Report by the Reflection Group: A Strategy for Europe*, Brussels, 5 December 1995. Available at [http://www.ena.lu/report\\_reflection\\_group\\_strategy\\_europe\\_brusse ls\\_december\\_1995-020003537.html](http://www.ena.lu/report_reflection_group_strategy_europe_brusse ls_december_1995-020003537.html) (last accessed on March 2011).

*Schengen Agreement* (1985), Schengen, 14.06.1985

*Strategy Paper on Activities Foreseen in the Field of Asylum within the Process of Turkey's Accession to the European Union (Asylum Strategy Paper)*, Ankara, 24 March 2002. Available at [http://gib.icisleri.gov.tr/default\\_B0.aspx?content=1016](http://gib.icisleri.gov.tr/default_B0.aspx?content=1016) (accessed in February 2010).

*TC Başbakanlık Genelge, Entegre Sınır Yönetimi*, TC Resmi Gazete, 26.05.2010

TGNA (1926), *Law on Settlement (İskan Kanunu)*, No.885, 31.06.1926.

TGNA (1934), *Law on Settlement (İskan Kanunu)*, Law No. 2510, 14.06.1934

TGNA (1950), *Citizenship Law (Vatandaşlık Kanunu)*, Law no.5687, 15.07.1950

TGNA (1950a), *Law on Sojourn and Movements of Aliens in Turkey (Yabancıların Türkiye'de İkamet ve Seyahatleri Hakkında Kanun)*, Law No.5683, 15.07.1950

TGNA (1950b), *Passport Law (Pasaport Kanunu)*, Law No.5682, 15.07.1950

*Treaty Establishing the European Economic Community*, 1957.

*Treaty of Amsterdam, Amending the Treaty on European Union, the Treaties Establishing the European Communities and Certain Related Acts, Official Journal, C 340 of 10 November 1997.*

*Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community, Official Journal C 306 of 17 December 2007.*

*Treaty on European Union, 1992, Official Journal C 191 of 29 July 1992.*

*Türkiye’de Dış Sınırların Korunmasına Yönelik Strateji Belgesi, 2003, in Turkish Ministry of Interior (2006), National Action Plan Towards the Implementation of Turkey’s Integrated Border Management Strategy, 27.03.2006, No.B.05.0.ESY.01.11/06-61*

*Turkey-EU Association Council (1995), Decision, No. 1/95, Ankara, 06.03.1995*

*Turkish Ministry of Interior (2004), Draft National Action Plan for Asylum and Draft National Action Plan for Migration United Nations (1967), Protocol Relating to the Status of Refugees, 606 UNTS 267*

*Turkish Ministry of Interior (2005a), General Directorate of Security, Turkish National Action Plan for the Adoption of the EU Acquis in the Field of Asylum and Migration, No.B.05.1.EGM.013.03.02, 17.01.2005*

*Turkish Ministry of Interior (2005b), General Directorate of Security, Turkish National Action Plan for the Adoption of the EU Acquis in the Field of Asylum and Migration, No.B.05.1.EGM.013.03.02, 17.01.2005*

*Turkish Ministry of Interior (2006), National Action Plan Towards the Implementation of Turkey’s Integrated Border Management Strategy, 27.03.2006, No.B.05.0.ESY.01.11/06-61*

*United Nations (1951), Convention Relating to the Status of Refugees, Text: 189 UNTS 150*

*United Nations (1951), Convention Relating to the Status of Refugees, Text: 189 UNTS 150*

United Nations (1967), *Protocol Relating to the Status of Refugees*,  
606 UNTS 267

#### **ELECTRONIC RESOURCES**

European Commission , *Turkey 2010Progress Report*, available at  
<http://www.abgs.gov.tr/index.php?p=123&l=2>

European Commission , *Turkey 2009Progress Report* available at  
<http://www.abgs.gov.tr/index.php?p=123&l=2>

European Commission , *Turkey 2008 Progress Report* available at  
<http://www.abgs.gov.tr/index.php?p=123&l=2>

European Commission, *Turkey 2007Progress Report* available at  
<http://www.abgs.gov.tr/index.php?p=123&l=2>

European Commission, *Turkey 2006Progress Report* available at  
<http://www.abgs.gov.tr/index.php?p=123&l=2>

European Commission, *Turkey 2005Progress Report* available at  
<http://www.abgs.gov.tr/index.php?p=123&l=2>

European Commission, *Turkey 2004Progress Report* available at  
<http://www.abgs.gov.tr/index.php?p=123&l=2>

European Commission, *Turkey 2003Progress Report* available at  
<http://www.abgs.gov.tr/index.php?p=123&l=2>

European Commission, *Turkey 2002 Progress Report* available at  
<http://www.abgs.gov.tr/index.php?p=123&l=2>

European Commission, *Turkey 2001 Progress Report* available at  
<http://www.abgs.gov.tr/index.php?p=123&l=2>

European Commission, *Turkey 2000Progress Report* available at  
<http://www.abgs.gov.tr/index.php?p=123&l=2>

European Commission, *Turkey 1999Progress Report* available at  
<http://www.abgs.gov.tr/index.php?p=123&l=2>

European Commission, *Turkey 1998 Progress Report* available at  
<http://www.abgs.gov.tr/index.php?p=123&l=2>

<http://www.eurotreaties.com/>

[www.abgs.gov.tr](http://www.abgs.gov.tr)

<http://www.abgs.gov.tr/index.php?p=5&l=1>

<http://www.abgs.gov.tr/index.php?p=44466>

<http://www.abgs.gov.tr/index.php?p=123&l=1>

[www.unhcr.org.tr](http://www.unhcr.org.tr)

[www.europa.eu.int](http://www.europa.eu.int)

[www.mfa.gov.tr](http://www.mfa.gov.tr)

[www.icisleri.gov.tr](http://www.icisleri.gov.tr)

[www.egm.gov.tr](http://www.egm.gov.tr)

<http://www.mfa.gov.tr/turkey-s-fight-against-illegal-immigration.en.mfa>

<http://www.migrationinformation.org/Feature/print/cfm?ID=176>

Türkiye'nin 7 ayrı bölgesinde 7 Sığınmacı Mülteci Kabul Tarama Merkezi inşa edilecek, 21 July 2009

<http://www.bighaber.com/haber/turkiye039nin-7-ayri-bolgesinde-7-siginmaci-ve-multeci-kabul-ve-tarama-merkezi-insa-edilecek-105110.html>

[www.netgazete.com](http://www.netgazete.com)

<http://www.upsam.org.tr/tr2.html>

<http://eur-lex.europa.eu/en/treaties/index.htm>

[http://gib.icisleri.gov.tr/default\\_B0.aspx?content=1003](http://gib.icisleri.gov.tr/default_B0.aspx?content=1003)

## NEWSPAPERS

*The Guardian*

*International Herald Tribune*

*Milliyet*

*Haberturk*

*Radikal*

*Financial Times*

*Cumhuriyet*, ‘Yasadisi Gocle Mucadele Genelgesi’ , 21 December 2010.

‘Af Orgutu Genelgeyi Degerlendirdi’, 8 August 2010. Available at [www.multeci.net](http://www.multeci.net)

*Today's Zaman*, Illegal Immigration and the Future of Greco-Turkish Relations, 3 August 2009.

Travis, Alan et al., ‘Europe’s Asylum Policy Shameful Says UN’, *the Guardian*, 20 June 2003.

## **INTERVIEWS**

Assist.Prof. Özlen Çelebi, Ankara, Talk, October, 2008.

Secretariat General for EU Affairs, Interview, Ankara, 2009.

Delegation of the European Union to Turkey, Justice and Home Affairs Section Head, Interview, Ankara, April, 2008.

Turkish Republic Ministry of Interior, Police, Talk, Ankara, March, 2009.

UNHCR Turkey Office, Public Affairs Officer Mr. Metin Çorabatır, Talk, Ankara, December 2010.

A Junior Asylum Seeker in Turkey from Afghanistan, Aksaray, September, 2010.

## APPENDIX A

### INTERVIEW QUESTIONS

1. What do you think about the EU's migration, asylum and border control policies?
2. Do you find them in line with its overall liberalizing image?
3. How important a question is migration and asylum for Turkey? Where would you locate in a hypothetical priority list?
4. What are the demands of the EU in this field from Turkey?
5. Do you find the EU open for cooperation in this field?
6. Implementation of which projects did the EU support in Turkey?
7. How far do the priorities of the EU and Turkey overlap in this field?
8. What do you think is the effect of developments in Europe about internal security on Turkey?
9. How liberal is the asylum system in Europe?
10. How liberal is the asylum system in Turkey?
11. What are the problems in Turkish application of asylum?
12. How does the Turkish security agents become transnationalized? Is this a positive development?
13. How does the European agencies transfer their 'experiences' to Turkey?
14. How does Turkish security agents feel about the developments in the EU? Is there a difference of perception between Turkish and European security agents especially about asylum seekers?
15. How does the asylum system work in Turkey? What are the problems?
16. What do you think about European databases in this field? What are the efforts of Turkey to become a part of these?
17. How will becoming part of these databases effect Turkish security agents' way of doing business?
18. How does the "safe third country" principle is applied on the ground? How do would the country of origin of an asylum seeker is determined? ,
19. Do you cooperate with civil society in this field?

## **INTERVIEW WITH THE UNHCR OFFICE IN TURKEY**

- 1- How does the dual structure of asylum in Turkey work and how does the UNHCR get involved?
- 2- How does the process evolve once the UNHCR is involved?
- 3- Has the EU accession process of Turkey affected the relations of UNHCR with Turkish authorities?

## APPENDIX B

### STATISTICS

Table. Asylum Applications in Turkey between the years 1995-2007

Country	Applications	Accepted cases	Rejected cases	Pending cases	Secondary Protection	Withdrawals
Iraq	16,972	5,919	5,209	4,707	283	854
Iran	28,963	18,316	3,225	6,048	274	1100
Afghanistan	1,480	312	280	860	1	27
Russia	80	15	43	15	-	7
Uzbekistan	231	70	76	73	-	12
Former Soviet Union*	105	11	65	18	-	11
Balkans**	91	53	29	1	-	8
Western Europe***	5	-	3	1	-	1
Other****	2437	331	355	1,670	26	55
Total	50,364	25,027	9,285	13,393	584	2,075

\* Includes Azerbaijan, Georgia, Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Ukraine.

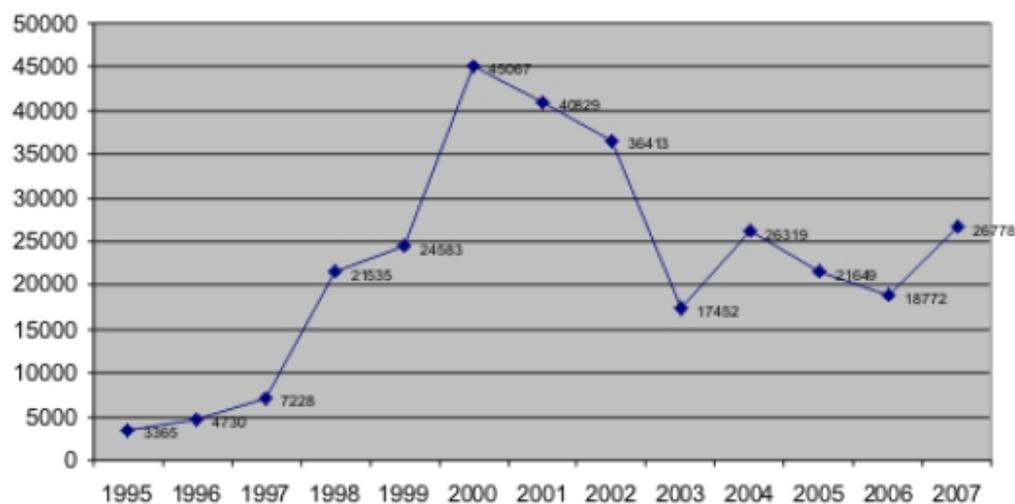
\*\* Includes Albania, Bosnia, Bulgaria, Greece, Macedonia, Romania, and Yugoslavia.

\*\*\* Includes Belgium, Germany, Italy, Switzerland.

\*\*\*\* Includes Algeria, Bangladesh, Birmania (Myanmar), Burma, Burundi, Cameroon, China, Congo, Egypt, Eritrea, Ethiopia, Ghana, Guinea, India, Israel, Ivory Coast, Jordan, Kenya, Kuwait, Lebanon, Liberia, Libya, Malaysia, Mauritania, Morocco, Niger, Nigeria, Pakistan, Palestine, Philippines, Rwanda, Saudi Arabia, Sierra Leone, Sri Lanka, Somalia, Sudan, Syria, Tunisia, Uganda, United States of America, Yemen, Western Sahara, Zaire.

Source: (Kirişçi, 2009: 15) Data as of 10.01.2008

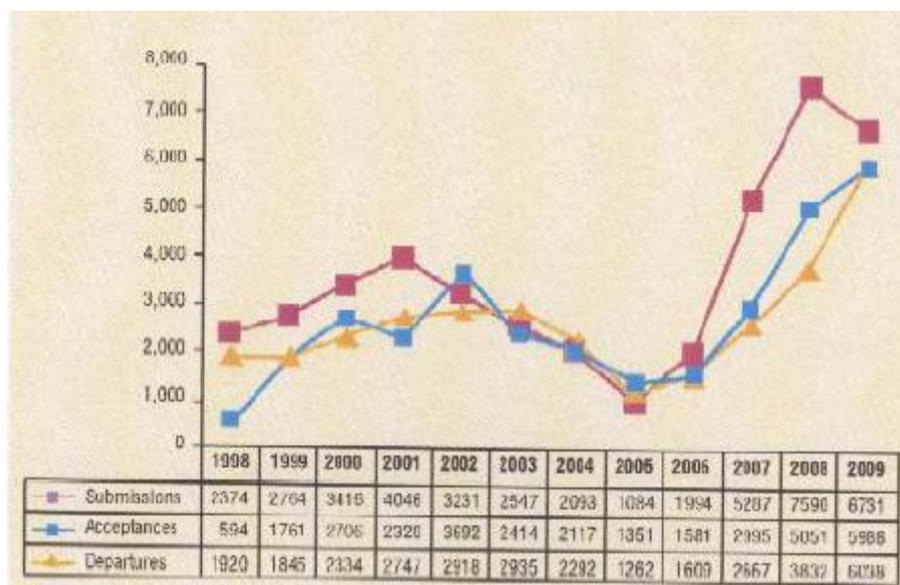
Table . Illegal Transit Migrants Arrested by Turkish Security Forces between 1995-2007



Countries covered are Afghanistan, Algeria, Bangladesh, Egypt, Iran, Iraq, Morocco, Libya, Pakistan, Syria and Tunisia

Source: (Kirişçi, 2009: 16)

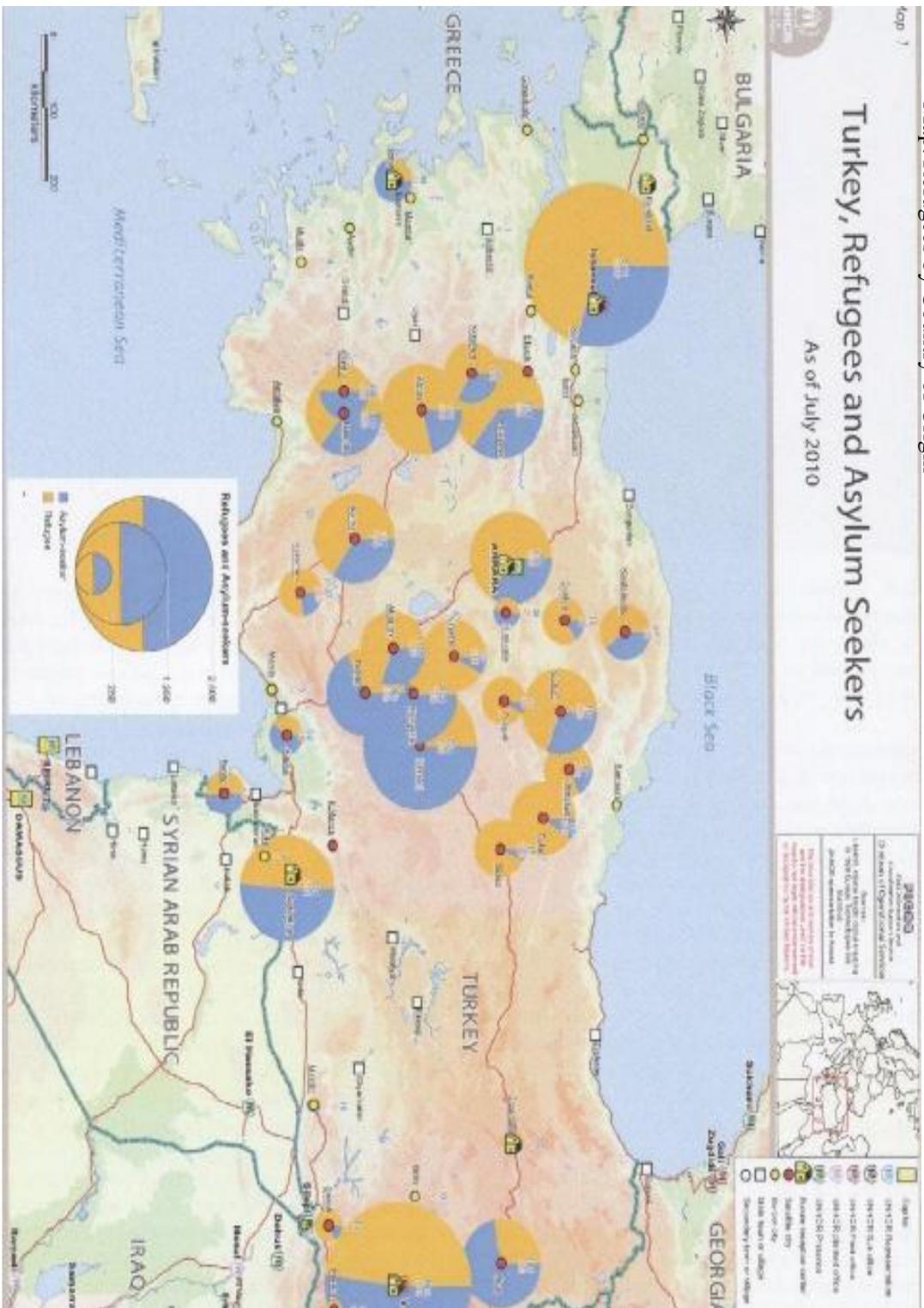
Table. Resettlement statistics of Turkey 1998-2009



Source: (UNHCR, 2010: 19)



Map. Refugees by Country of Origin



Source: (UNHCR, 2010, 18)

## APPENDIX C

### CIRRICULUM VITAE

#### **Çiğdem Hajipouran Benam**

Birth Date: 20/11/1978 Maiden Name: Tunç

Mobile #: +90 542 452 41 44

Civil Status: Married

e-mail: [cigdemtunc@yahoo.com](mailto:cigdemtunc@yahoo.com)

#### **EDUCATION**

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<b>University of Oxford</b> Visiting Study Fellow, Refugee Studies Centre	Oxford	United Kingdom 2007- 2008
<b>Middle East Technical University</b> PhD in International Relations	Ankara	Turkey 08.2004- 02.2011
<b>University of Wales, Aberystwyth</b> MScEcon in Security Studies	Wales	United Kingdom 09.2002-12.2003
<b>Middle East Technical University</b> BS in Political Science and Public Administration CGPA: 3.31/4	Ankara	Turkey 1995-1999
Ankara Atatürk Anatolian High School		1988-1995

#### **WORK EXPERIENCE**

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##### **The Union of Chambers and Commodity Exchanges of Turkey (TOBB)**

- Specialist* in Trade and TIR Department 08.2010- 01.2011
- In charge of TOBB's "Revitalization of the Silk Road Programme"
  - Responsible for following EU legislation in trade and transportation and its effects on Turkish businesses
- Specialist* in EU Department 08.2006 - 08.2010
- Assistant Specialist* in EU Department 08.2004- 08.2006

- Coordinated programmes with the Islamic Development Bank (IDB) on Organized Industrial Zones in Turkey and a capacity building programme for the Syrian Investment Promotion Agency
- In charge of designing and implementing 2010 projects implemented with the IDB
- In charge of “Our Common Road EU” project run in cooperation with the Directorate General for EU Affairs, held meetings in Siirt and Kayseri provinces.
- Contact person for the trilateral Ankara Forum Initiative between Israeli, Turkish and Palestinian business representative organizations
- Responsible for TOBB’s Business Development Project prepared within the context of OECD-MENA Project
- Responsible for the Turkish Chamber Development Program-II co-implemented with EUROCHAMBRES
- Responsible for TOBB- Centre for Strategic and International Studies (CSIS) Project
- In charge of following Copenhagen Political Criteria of the EU, Turkey’s adherence and reporting it to top management

**The Association of European Chambers of Commerce and Industry (EUROCHAMBRES)**

*Intern* in International Affairs Department 05.2005- 07.2005

- Responsible for organizing the Final Conference of the Turkish Chamber Development Programme-II
- Responsible for the preparations of the Study Visits of the Egyptian Business Support Programme (EBIS)

**Centre for Eurasian Strategic Studies**

*Assistant* to the head of department 07.2000- 08.2002

- Conducted research on various international security issues and assumed assistant editorial duties of the monthly Strategic Analysis journal.
- Translated various articles and speeches of the head of the department from Turkish to English.
- Organised monthly geopolitical meetings, only open to top level civil and military officials as well as scholars.
- Managed to prepare and disseminate timely and accurate postscripts of meeting discussions to participants

**Şekerbank INC**

*Management Trainee* Department of International Trade  
03.2000-05.2000

## **Turkish Republic Undersecretariat of Foreign Trade**

*Trainee*

Department of International Agreements  
07.1998-08.1998

## **Esbank INC**

*Trainee*

Kızılay Branch Office 08.1997-09.1997

## **PUBLICATIONS**

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- Tunç Ç. et al (2009), *Comparison of Turkey and Other OECD Countries in Terms of Labour Economics and Industrial Relations*, TOBB, Ankara.
- “Justice, Freedom and Security Chapter of Turkey’s EU Membership Negotiations and Readmission Agreements” (Turkish), *Economic Forum*, February 2007.
- “Amid Global Power Struggle: Central Asia Policy of the US”(Turkish), *Eurasian File*, January 2004, (co-authored with Mehmet Seyfettin Erol)
- “Japan’s Security Policy After 1945: A Giant in Economy, Dwarf in Military?” (Turkish), *Strategic Analysis*, No: 17, September 2001, pp. 73-78
- “Quest for Partnership in Asia Pacific After September 11: A New Era in Indo-US Relations” (Turkish), *Strategic Analysis*, No:18, November 2001, pp. 108-112
- “September 11+December 13= Threat of Nuclear War in Indian Subcontinent” (Turkish), *Strategic Analysis*, No: 22, February 2002, pp: 90-95
- “Changing World Order, Changing Peacekeeping Missions and Turkey’s Contribution” (Turkish), *Eurasian File*, Spring 2002

## **SKILLS**

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**LANGUAGES:** Turkish: Native

English: Fluent

French: Intermediate

Italian: Beginner

Persian: Beginner

**COMPUTER:** MS Office Applications (Word, Excel, Power Point, Internet Explorer)

## **SCHOLARSHIPS AND BURSARIES AWARDED**

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British Council Chevening Scholarship for Research in the UK, 2007-2008

The US Government International Visitors Leadership Programme, 02.2007 - 03.2007

British Council Chevening Scholarship for Masters Education in the UK, 2002-2003

**PROFESSIONAL MEMBERSHIPS**

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The Chatham House, UK

International Studies Association, USA

European Union Studies Association, USA

## APPENDIX D

### TURKISH SUMMARY

#### TÜRKÇE ÖZET

Bu tez Avrupa Birliği (AB)'nin değişen iç güvenlik kavramsallaştırması ve yeni sınır yönetimi modeli, bunların üçüncü ülkelere etkisi ve sonuçta ortaya çıkan güç ilişkileri üzerinedir. Göç insanlık tarihi kadar eski bir gerçeklik olmasına karşın, zaman içinde farklı şekillerde resmedilmiştir. Özellikle 1970ler sonrasında, Avrupa'da yaşanan iktisadi gerilemenin de etkisiyle, göç, çok iyi bir şekilde yönetilmesi gereken, aksi takdirde alıcı ülkeler için ciddi sorunlar doğurabilecek bir husus olarak formüle edilmiştir. Dahası, son yıllarda Avrupa'da göç bir 'güvenlik' sorunu olarak resmedilir hale gelmiştir. Bu çerçevede, göç ile güvenlik arasında bir bağ kurularak, AB Avrupa'daki ve ötesindeki kitleleri yönetmek için yeni yönetim araçları geliştirmektedir. Bu tez geleneksel güvenlik anlayışına karşı çıkarak, güvenlik kavramının anlamını ve toplumsal ve siyasal hayattaki rolünü sorgulamaktadır, dahası Michel Foucault'nun fikirleri paralelinde, güvenliğin kitleleri yönetmede bir araç olduğunu savunmaktadır. Bu çerçevede Türkiye'yi bu yönetim araçlarını ve şeklini incelemek için bir vakıa çalışması olarak almaktadır. Türkiye, AB ile üyelik müzakereleri yürüten bir ülke olarak, AB'nin yeni sınır güvenliği modelinin bir parçası haline gelmektedir. Bu ise güvenlik bürokrasinin zihin dünyasında ve pratiklerinde bir değişim gerektirmektedir. Bu da mülteciler ve göçmenler açısından değişen güç ilişkileri doğurmaktadır. Mevzuat değişimi, eşleştirme projeleri, en iyi örnekler vb Türk güvenlik bürokrasinin uygulamalarını yönetmekte kullanılan araçların bazılarıdır. AB fonları ile gerçekleştirilen karşılama ve geri gönderme merkezleri inşasına yönelik projeler politikada ve uygulamadaki değişimin en uç örneklerindedir.

İnsan topluluklarının hareketi sadece 20inci veya 21inci yüzyıla ait konular değildir. Bu husus insanlık tarihi ile yaşıttır. Dahası, göç kendi başına olumlu veya olumsuz bir anlam taşımamaktadır. Ancak, ulus devletlerin ortaya çıkışı ve bunlar arasındaki sınırların çizilmesi ile, ki mevcut uluslararası sistemin temelini de bu oluşturmaktadır, insanların coğrafya üzerindeki hareketleri sorunlu bir hale gelmiştir. Dahası insanların coğrafya ile olan ilişkisi devletlerin iktidarlarını kullanmalarında temel araçlardan biri haline gelmiştir.

İkinci Dünya Savaşı sonrasında iktisadi anlamda çöküntüye uğrayan Avrupa kıtasının yeniden inşası için dışarıdan getirilecek insan gücüne ihtiyaç duyulmuştur. Dolayısıyla 1950ler ve 1960lar da gelişen iktisadi durum ile doğrudan bağlantılı olarak ve piyasadaki ucuz iş gücü talebini karşılamak için dünyanın diğer bölgelerinden işçiler getirilmiştir. Ancak 1970ler ile birlikte göçmen işçi konusuna ilgi artış göstermiş, yaşanan iktisadi kriz ile göçmenler arasında bir illiyet bağı kurulmaya çalışılmıştır. Bu durum da 1980ler ile birlikte farklı bir kavramsallaştırma hakim olmaya başlamıştır. Bu süreçte Avrupa'nın siyasi haritası da değişime uğramakta, bir yanda sağ partiler iktidara gelmekte, diğer yandan Avrupa genelinde bir Tek Pazar oluşturulması, üretim faktörlerinin serbest dolaşmasının teşviki gayretleri hız kazanmaktadır.

AB son dönemde göç ve iltica konularını da kapsar hale gelen iç güvenlik alanında önemli bir aktör haline gelmiştir. AB'nin bu alandaki artan rolü, sınırların olmadığı bir Avrupa'da 'telafi edici önlemler' gerektiği yolundaki söylem ile meşrulaştırılmaktadır. Bunun yanında küreselleşme ve artan göçmen ve mülteci sayıları da AB'nin bu alana daha fazla müdahil olması gerektiğini savunurken kullanılan argümanlardır. Ancak Birleşmiş Milletler Mülteciler Yüksel Komiserliği ve bir çok sivil toplum kuruluşlarınca açıklanan istatistikler AB ülkelerine yapılan iltica başvurularının sayılarının son yıllarda- kısmen AB'nin sınırlayıcı tedbirleri sonucu- düşmekte olduğunu, halihazırda da AB'nin dünyadaki mültecilerin küçük bir kısmını topraklarında bulundurduğu,

mültecilerin 'yükünün' çoğunlukla sınırlı iktisadi kaynaklara sahip kalkınmakta olan ülkelerce çekildiğini göstermektedir.

Bu tez toplumsal inşaacı bir pozisyona uygun olarak bu gelişmeleri tarihsel ve toplumsal bir çerçevenin içerisine oturtmak gerektiğini savunmaktadır. Tarih içerisinde bir çok dönüm noktası AB'nin iç güvenlik alanında öne çıkan bir aktör olmasını sağlamıştır. Bu alandaki ilk işbirliği Trevi dir. Sonrasında Schengen Antlaşmaları takip etmiştir. Schengen sonuç olarak AB mevzuatının resmi bir parçası haline gelmiştir. Schengen Antlaşmalarına paralel olarak yürüyen Tek Pazar kurma gayretleri de güvenlik ile ilgili kaygıları arttıran bir unsur olmuştur. Bu süreçte sınırların kalkması sonucu doğabilecek güvenlik zafiyetini gidermenin bir yolu olarak "telafi edici önlemler" kavramı ön plana çıkmıştır. Maastricht Antlaşması Topluluk çerçevesi dışında yürütülen iç güvenlik, adalet ve iç işleri ile ilgili konuları Topluluğun resmi ilgi alanına dahil etmiştir. Amsterdam Antlaşması ise bunu bir basamak daha ileri taşımıştır: Birliğin bir Özgürlük, Güvenlik ve Adalet alanı haline gelmesi hedefini getirmiş, Schengen mevzuatını resmen AB mevzuatının bir parçası haline getirmiştir. Yine Birlik kurumlarının bu alanda daha aktif olmasının yolunu açmıştır.

Sütünlü Maastricht yapısındaki üçüncü sütun, egemenliklerini kiskançca korumaya alışık ulus devletler için sorunlu alanları kapsamaktadır. Ancak, şaşılacak bir şekilde bu alan AB'de entegrasyonun en hızlı yaşandığı alanlardan biri haline gelmiştir. Bu alanın kapsadığı hassas konular göz önünde bulundurulduğunda işlevselci bir açıklamanın bunu anlamaya yeterli olmayacağı düşünülmektedir. Bugün 'iç güvenlik' alanında AB çok daha detaylı sorulara ve konulara dair taraf olmak, vatandaşlık, siyasi kimlik, güvenlik gibi kavramlara kendi açıklamalarını getirmektedir. Bu çerçevede, bu tez AB'nin adalet ve iç işleri alanındaki politikalarını başkalarının davranışlarını yönetmek için bir araç olarak görmektedir. AB bu politikalar vasıtasıyla hem kendi vatandaşlarını, hem de üçüncü ülke bürokrasileri ve vatandaşlarının davranışlarını etkilemeyi hedeflemektedir. Burada gittikçe karmaşıklaşan egemenlik ilişkilerine de dikkat

çekmek gereklidir. AB iç ve dış güvenliğin gittikçe karmaşık ve bağımlı hale geldiği değişen güvenlik anlayışı sonucu, değişik “güvenlik teknikleri” kullanarak hem içerideki kitlelerin hem de dışarıdakilerin davranışlarını kontrol etmeyi amaçlamaktadır. Bu süreçte de değişen güç ilişkileri gözlenmektedir. Ancak burada temel ilgiyi içeri ve dışarının kesiştiği sınırlar ve göçmenler hak etmektedir. Bu süreçte AB’de iki temel süreç yaşanmaktadır: Avrupalılaştırma ve dışsallaştırma. İç güvenliğe dair mevzular Birlik seviyesinde planlamaya ve çözümlenmeye başlarken, sorunların kaynağı dışarıda algılanmakta ve AB sınırlarına ulaşmadan çözümlenmesi gerektiği fikri ağırlık kazanmaktadır.

Bu süreçte, liberalizm üzerine inşa edilmiş AB’nin geliştirdiği politikalar, liberal felsefelere sahip üye ülkelerinin politikaları gibi, liberalizm ile çatışır sonuçlar doğurabilmektedir. Zaman zaman temel hak ve hürriyetleri tehlikeye atan pratikler uygulamaya konulmaktadır. Örneği gittikçe artan ve ileri teknolojiden faydalanılarak gerçekleştirilen takip ve gözetim insanların özel hayatına saygı sınırlarını zorlamakta, kamu kurumlarının elinde bireylere dair birçok bilginin muhafaza edilmesine yol açmaktadır. Yine benzer şekilde, uluslar arası hukuk ile garanti altına alınmış siyasi iltica hakkı da içi boşaltılarak, pratikte uygulanamaz hale getirilmektedir. Örneğin siyasi iltica hakkının doğabilmesi için bireyin başka bir ülke toprağında bulunması gerekmektedir. Ancak en basitinden katı vize politikaları, ülkesinde siyasi sıkıntı ve tehdit yaşasa dahi bireylerin AB ülkelerine girişlerini ve ulaşımını kısıtlamaktadır.

AB’nin göç ve iltica konularındaki tutumu küresel söylemi etkileme potansiyeline sahiptir. Ancak AB’nin ‘tarihin son’ noktasına geldiği, geleneksel anlamda egemenlik, vatandaşlık ve güvenlik gibi kavramların ilerisine geçtiğine dair iddialara karşın, AB’nin göç politikası bu söylemler ile uyumlu değildir. Dahası bir çok farklı teknik ve araç vasıtasıyla AB bu politikayı etrafındaki ülkelere de ihraç etmeye çalışmaktadır. 1990larda yazan Sandra Lavenex haklı olarak yeni uyelerden bir yanda insan hakları normalarına uymaları beklendiği diğer yandan

ise bununla çelişen sınırlarının her ne pahasına olursa olsun korunması gerektiği çelişkinin aday ülkelerce yaşandığını belirtmiştir.

Tüm bu konu ve sorunlara post-pozitivist bir bakış açısı getirmeyi hedefleyen bu tez, Uluslar arası İlişkiler disiplinde Soğuk Savaş sonrası kendine yer bulan “üçüncü tartışma”ya dahil olmayı hedeflemektedir. Bu çerçevede ünlü Fransız düşünürü Michel Foucault’nun kavram ve görüşlerinden yararlanmayı önermektedir. Foucault, yine başka tartışmalı bir isim olan Fredrich Nietzsche’nin görüşlerinden ilham alarak bir araştırma yöntemi geliştirmiştir. Sosyal ve siyasi olay ve sorunların zaman ve mekanla bağlı olduğunu vurgulayarak, temelci yaklaşımlara karşı çıkmıştır. Foucault için doğru veya yanlış yoktur, doğrunun ve yanlışın belli bir toplumsal çerçeve ve zaman diliminde tanımlanışları, bunun doğruduğu güçlü ve güçsüzler, dolayısıyla güç ilişkileri vardır. Söylemler bu güç ilişkilerini meşrulaştırmak ve kalıcı hale getirmek için araçlardır. Güvenlik çalışmaları son dönemde bu tür eleştirel fikirlerden yararlanmaya başlamıştır, daha da faydalanmalıdır.

Foucault yönetim kavramını siyaset ile eşitleyerek daha geniş düşünmektedir. Yönetmek toplumu, devleti yönetmek olabileceği gibi bireyin kendini yönetmesi, bir ailenin yönetilmesi de söz konusu olabilir. Dahası Foucault modern devlet açısından bireyin kendi kendini yönetmesi ile devletin yönetimi arasında bir bağ olduğunu, liberalizm bu mantık üzerine inşa edildiğini söylemektedir. Foucault 1978’deki derslerinde “yönetimsellik” diye bir kavramdan söz etmiştir. Buna göre başkalarının davranışları üzerinde etkide bulunmaya çalışmak yönetimin tanımıdır, insan davranışlarının planlı bir şekilde etkilenmeye çalışılması yönetimdir. Yönetimsellik ise, her hangi bir yönetimin arkasındaki mantığı ve tarzı araştırmayı hedefler. Foucault Avrupa’da modern döneme kadar gelişmiş yönetim mantıklarını araştırmaktadır. Bunları üç ana başlık altında toplar: egemenlik, disiplin ve yönetimsellik. Egemenlik aşamasında önemli olan toprak üzerindeki hakimiyettir. Burada o toprak üzerindeki bireyler ayrı bir anlam taşımamaktadır. Disiplin aşamasında ise torağa ilave olarak, bireylerin

davranışları ve bireysel ve fiziksel özelliklerinin istenilen şekle sokulması önem kazanmaktadır. Son olarak ise yönetsellik sürecini Liberalizmin doğuşu ile inceler Foucault. Bilhassa 19uncu yüzyıl sonrasında Avrupa’da geçerli olan bu süreçte artık bireylerin bedenleri değil, kitlelerin yönetilmesi sorunu doğmuştur. Kitleleri yönetmede ise güvenlik bir araç haline gelmiştir. Foucault Avrupa entegrasyonu üzerine hiç yazmamıştır, yazıları genelde ulus devlet çerçevesi içerisinde şekillenmiş, hatta devlet ile doğrudan bir araştırma konusu olarak ilgilenmemiştir. Onun yerine devleti farklı parçaların bir araya geldiği bir aygıt olarak düşünmüş ve bu farklı parçaların uygulamaları üzerine yoğunlaşmak gerektiğini belirtmiştir. Dolayısıyla Foucault’nun fikirlerini ve kavramlarını AB düzeyine uygulamak yeni bir bakış açısı getirecektir. Yine Foucault’nun liberalizm üzerine dolaylı da olsa ifade ettikleri AB açısından da geçerlidir. AB’nin bir iç güvenlik alanı geliştirmesi sürecinde mülteci ve kaçak göçmenlerin fiziki varlıkları ve vücutları siyasetin bir aracı haline gelmektedir. Burada hem ölümlerinin hem de AB’ye girişlerinin önlenmesi gereken kişiler resmedilmektedir.

Avrupa genelinde içişleri alanındaki işbirliği 1970li yıllara kadar uzanmaktadır. Bu dönemdeki girişimler hükümetlerarası düzeyde ve daha sınırlı konuları kapsar şekilde düzenlemiştir. Ancak, güvenlik bürokrasisine dayalı çalışma biçimleri de dahil bir çok husus, AB çerçevesindeki işbirliğine zemin hazırlamıştır. Maastricht Antlaşması sonrasında ortaya çıkan sütunlu yapıda üçüncü sütunu oluşturan adalet ve içişleri alanı hükümetler arası bir yapıya sahipken, Amsterdam Antlaşması ile bu alan topluluk alanı haline gelmiştir. Tek pazarın oluşturulması sürecindeki gelişmeler ve iç sınırların kaldırılması suç işleme olasılığının artmasını doğurabileceği şeklinde resmedilmiş, Maastricht Antlaşması ile bu alanda Birlik çerçevesinde işbirliğine gidilmiştir. Amsterdam ise bu anlamda entegrasyonun hızlanmasını sağlayarak bir dönüm noktası olmuştur. Yine Amsterdam ile Schengen mevzuatı AB mevzuatının bir parçası haline gelmiş, ‘telafi edici önlem’ mantığı AB’ye aktarılmıştır.

Amsterdam sonrasında gerçekleştirilen Tampere Zirvesi, AB'nin iç güvenlik alanındaki ilk beş yıllık planı hazırlanmıştır. Komisyon'a bu plan dahilinde üye ülkelerin ne yapıp neleri yapmadıklarını izleme vazifesi verilmiştir. Tampere ayrıca adalet ve iç işleri alanının dış boyutunun öneminin vurgulandığı bir toplantı olmuştur. Tampere sonrasında, AB'nin iç güvenliğinin dışarıdan kaynaklanacak tehditler ile yakinen alakalı olduğu sıkça vurgulanmıştır. Örneğin 2003 yılında hazırlanan AB Güvenlik Stratejisi Dokümanında iç ve dış güvenlik arasındaki bağ vurgulanmıştır, içeride güvenli bir Avrupa ve karşısında tehdit ve tehlikelerin olduğu bir 'dışarı' remedilmiş, bu durumla da en iyi işbirliği yaparak mücadele edileceği belirtilmiştir. Doküman, kaçak göç ve terörizm gibi güvenlik sorunlarını sıkça bir arada kullanarak aralarında bir nevi bağ kurmuştur. Her ne kadar göç açık bir şekilde tehdit ile eşitlenmemekteyse de, söylemsel olarak bir güvenlik çerçevesi çizilmekte ve göç de bunun içerisine yerleştirilmektedir. Bu gelişmeler de AB'de iç güvenliğin yönetilmesi için çeşitli siyasa araçlarının geliştirilmesi ile sonuçlanmıştır.

Bu çerçevede, ilki 1999 yılında tamperede görüşülen beş yıllık planlar kabul edilmeye başlanmıştır. Tampere'yi takibeni Lahey'de ve Stokholm'de sırasıyla 2004 ve 2009 yıllarında iki ayrı program daha görüşülmüştür. Ancak Tampere, bilhassa sınır güvenliği ile ilgili hususların dış boyutunun öncelik kazanmaya başladığı temel dönüm noktalarından biridir. Bu beş yıllık planlarda Komisyon, Konsey'in belirlediği öncelik alanlarında bir yol haritası çizerek, her yıl üye ülkelerin bu öncelikleri gerçekleştirmedeki yeterliliklerini ve eksikliklerini ölçerek ilan eder. Hükümetler arası alanda yürütülen adalet ve iç işleri alanındaki iş birliği, halihazırda demokrasi eksikliği veya politika yapımı ve uygulanması süreçlerinde yargı kontrolünden muafiyet, özgürlük ile güvenlik arasındaki ince dengedeki sorunlar gibi birçok hususu içinde barındırmaktadır. Bu sorunlar, AB çatısı altına oldukları gibi aktarılmıştır. Bu durum da haklı olarak birçok insan hakları çevrelerinde kaygı ile karşılanmıştır. Bu süreçte de en hassas durumda olan guruplar, gittikçe güvenlik konuları ile birlikte anılmaya başlanan göçmenler ve mülteciler olmuştur. Bu guruplar gittikçe birer risk unsuru olarak görülmeye ve

bu şekilde takdim edilmeye başlanmıştır. Bununla mücadele yöntemi olarak ise “dışsallama” yani ‘sorunun’ AB’ye ulaşmasını engellemek fikri ve artan takip yöntemleri benimsenmeye başlanmıştır. Bu alandaki gelişmeler temelde iki ana hattı izlemiştir: birincisi, uzmanlar vasıtası ile bu alanı yönetmek için yeni kurumlar ve veri bankaları icat edilmiş, sayıları gittikçe artmıştır. İkinci olarak ise, AB kendi etrafında *de-facto* bir “korunma alanı” kurmaktadır. Bunun için de icat ettiği iç güvenlik, sınır güvenliği ve benzer alanlara dair yönetim kurallarını ihraç etmeye çalışmaktadır. Sınır güvenli, göç ve ilticaya dair yeni normlar ve uygulamalar geliştirmektedir, bunu da çevresine ihraç etmekte, kurguladığı yeni sisteme bir çok ülkeyi katmaya çalışmaktadır. Ancak bu yönetim yöntemlerine dair ihraç tek taraflı bir zorlama sonucu veya tamamen eşitsiz bir ortamda gerçekleşmemektedir. Tam tersi, her ne kadar AB’nin sınır güvenliğinden sorumlu birimi FRONTEX kurulduktan sonra tartışılır ve daha militer hale gelse, AB bunu yaparken liberal bir söylem ve liberal iş yapış tarzlarını kullanmaktadır. Bu liberal tarzın altında yatan mantık da bir yanda malların ve kişilerin dolaşımını hızlandırmak ve serbestleştirmek, diğer yandan ise istenmeyen grupların erişiminin risk yönetimi ve filtreleme metodlarının kullanılarak engellenmesi üzerinedir. Bu sayede riskler tehdit haline gelmeden engellenerek güvenlik zafiyetine mahal verilmeyecektir. Bu sayede Didier Bigo’nun tabiriyle AB bir “ban-opticon” inşa etmekte, iyi yönetim tarzının bir parçası olduğu varsayımıyla tüm taraflar gözetim ve disiplin tekniklerini içselleştirmektedir.

Tüm bu değişiklikler iki kutuplu dünyanın sona erdiği, yerine ne konacağına bilinmediği, bir anlamda güvenlik bürokrasisinin işsiz kaldığı bir süreçte, kısacası uluslar arası ortamın çok uygun olduğu bir süreçte cereyan etmektedir. Bu dönüşüm sonucunda güvenlik bürokrasi tarafından en hararetle kabul edilen kavramlardan biri küreselleşme olmuş ve küreselleşmenin doğurabileceği tehditler de temel uğraş alanları haline gelmiştir. İnsanların bir yerden bir yere seyahat etmelerinin çok daha kolay hale geldiği küreselleşen bir dünyada, göçmenler de bu yeni güvenlik formülasyonlarının bir parçası haline gelmeye başlamıştır. Bu

süreçte yeni tehditler tanımlanmış, adeta bir “güvenlik cetveli” icat edilmiş, bir çok güvenlik sorunu bunun bir parçası olarak tanımlanmış, göç de bunlardan biri haline gelmiştir. 11 Eylül 2001 olayları da bu güvenlik ağırlıklı söylemin diğer alternatif söylemler üzerinde hakimiyet kurmasını kolaylaştırıcı bir unsur olmuştur.

Avrupa güvenliğini tanımlama çabaları da bu gelişmelerden etkilenmiştir. 1970lerden bugüne göç konusuna Avrupa toplumlarında artan bir ilgi mevcuttur ancak Soğuk Savaş’ın yoğun gündemi göç ve iltica konularını ikinci plana itmiş, ulusal düzeyde seyretmesine yol açmıştır. Soğuk Savaş’ın sona ermesi ile birlikte, yeni güvenlik tehditlerinin doğduğu göç, terör gibi konuların buna dahil olduğu yönünde bir söylem gittikçe ağırlık kazanmıştır. Bu çerçevede Avrupalı devletler AB’yi değişen uluslararası ortam ile mücadele ve işbirliği için bir platform olarak görmeye başlamıştır. AB bu alanda sınır güvenliğini sağlamak ve kaçak göçü önlemek iddiası ile bir çok faaliyette bulunmakta ve yeni kurallar geliştirmektedir. Dahası bu geliştirilen yeni normlar ve pratikler üçüncü ülkelere ihraç edilmeye çalışılmaktadır. Tüm bunlar AB’nin adaleyt içişleri alanındaki işbirliği çerçevesinde yürütülmektedir. Bu süreçte Avrupalılaştırma ve dışsallaştırma beraber ilerlemektedir. Bu ise Avrupa’nın iç güvenliğine savunmacı bir yaklaşımın, önleyici ve gözetime dayalı uygulamaların hakim olmasına yol açmaktadır.

AB en başından beri bir güvenlik projesi olmuştur ve ülkeler arasında entegrasyonun ve askeri gücü kullanma yoluna başvurmayı kınayarak güvenliğin sağlanmasını hedef koymuştur. Bu da kendine has bir kimlik ve liberal bir söylem yaratmasında etkili olmuştur. Dahası, AB’nin kuruluşunun altında yatan temel amaç da zaten silahların ve askeri gücün Avrupa’da kullanılmasının önüne geçmektir. Dolayısıyla, AB kendi kimliğini uluslararası normların ve insan haklarının ciddi bir takipçisi ve uygulayıcısı olarak inşa etmiştir. Bu söylem ise AB’yi iletişim içerisinde olduğu bir çok devlet ile hiyerarşik bir ilişki içerisine sokmaktadır. Ancak sınır güvenliği ve göçmenler bu resmi daha karmaşık hale

getirmektedir. Sınır güvenliği ve göçmenler ile mücadele konusunda artan vurgu, güvenlik siyasetinde de değişimleri beraberinde getirmektedir.

Uluslararası sistemdeki gelişmelere paralel olarak, güvenlik çalışmaları alanında da yeni görüş ve tartışmalar ortaya çıkmaya başlamıştır. Bunlar genelde güvenlik çalışmalarının ve bizatihi güvenlik kavramının tanımının genişletilmesi ve derinleştirilmesi üzerine yoğunlaşmıştır. Soğuk Savaş döneminde de geleneksel güvenlik çalışmalarına alternatif görüşler olmasına karşın, Soğuk Savaş'ın bitimiyle eleştirel güvenlik çalışmaları daha da ivme kazanmıştır. Bu çalışmalar genel hatlarıyla üç gruba ayrılabilir: Galler Okulu, Kopenhag Okulu ve Paris Okulu.

Tüm bu okullar kendi içerisinde farklı görüş ve tarzları barındırmaktadır ve bilhassa son yirmi yılda aralarında ciddi bir diyalog gözlenmektedir. Mevcut çalışma kendini üçüncü okulun, yani Paris Okulu'nun bir parçası olarak konumlandırmakta, bu alandaki çalışmalardan istifade etmektedir ve AB'deki gelişmeleri bu çerçevede yorumlamaya çalışmaktadır. Paris Okulu çok genel hatlarıyla ifade etmek gerekirse, güvenliğin ontolojik varlığını araştırmak yerine toplumsal hayattaki fonksiyonu üzerine yoğunlaşmayı tercih eder. Güvenliği toplulukları yönetmede bir araç olarak tanımlar, bilhassa güvenlik bürokrasisi olmak üzere, güvenliğin söylemsel ve pratiğe dair inşasına önem verir ve anlamlandırmaya çalışır. Bu alandaki en önemli isimlerden biri Didier Bigo dur, nitekim “ban-opticon” veya “güvenlik cetveli” gibi AB'deki gelişmeleri anlamlandırmaya yarayan birçok kavramsal çerçevenin mimarı da kendisidir. Ancak bu tez, Bigo ve ekibinin çalışmalarında her ne kadar belli ölçüde bulunsa da Foucault'nun etkisinin daha belirgin olması gerektiğini savunmaktadır. Bigo'nun çalışmalarında Foucault daha çok üstü kapalı bir şekilde vardır. Ancak, bilhassa “yönetimsellik” (governmentality) kavramının daha açık resmedilmesi ve AB'nin pratikleri ile bağının daha net kurulması gerektiğini iddia etmektedir. Nitekim, çalışma da bunun üzerine kurulmuştur. Yönetimsellik ve güvenlik arasındaki ilişkinin irdelenmesi, AB'deki gelişmelere mevcut geleneksel

teorilerden farklı bir bakış açısı sağlayacak, bugünkü tartışmaları tarihsel bir perspektife oturtacaktır.

Amsterdam Antlaşması'nda gerçekleştirilen hukuki değişiklikler, Tampere ve Lahey Zirveleri'nde kabul edilen yeni politika enstrümanları, AB için göç mevzularına dair küresel bir yaklaşımın benimsenmesi ile sonuçlanmıştır. AB'nin göç, iltica ve sınır güvenliği alanlarına dair literatürde son dönemde iki kavram öne çıkmaktadır: “güvenlikleştirme” ve “Avrupalılaştırma”. İlki göç ile güvenlik arasında gittikçe artan bir oranda kurulan bağa işaret ederken, ikincisi AB'nin ulusal karar alma mekanizmalarında değişikliğe yol açmasını belirtmektedir. Bu tez bu kavramların yeniden yorumlandığı veya AB'nin takındığı, iç sınırların kalkması ile kontrol zafiyeti ortaya çıkacağı ve daha önce benzeri görülmemiş mülteci akınlarının yaşandığı veya terör tehdidi gibi kısıtlayıcı yaklaşım ve söylemi meşrulaştırmaya çalışan bir tez olma iddiasında değildir. Tam tersine, hem Avrupalılaştırma hem de güvenlikleştirme tezlerinin belli ölçüde tersine bir yaklaşımı savunmaktadır.

Avrupalılaştırma literatürü karar verme mekanizmaları ve kurumlar üzerindeki AB'nin dönüştürücü gücünü incelemektedir ancak bu dönüşümün sonuçları üzerinde yeterince durmamaktadır. Hatta, zaman zaman Avrupalılaştırma'ya derhal olumlu bir anlam yüklenmektedir. Fakat diğer taraftan, göç konusunun güvenlikleştirilmesine dair çalışmalarda söyleme büyük önem vermektedir, ancak günlük pratiklere söylem kadar önem verilmemektedir. Söylem ise sadece konuşmaya dair konuları değil, liberal bir toplumda siyasetçilerin ve uzmanların günlük pratiklerini de kapsamalıdır. Çünkü bu pratikler toplumdaki güç ilişkilerini düzenleme potansiyeline sahiptir. Modern toplumlarda bilhassa ‘uzmanların’ ürettikleri ve ilan ettikleri bilgiler güç ilişkilerinin yeniden üretilmesini sağlar, bu tez açısından da AB'nin pratiklerinin meşrulaştırılması ve yeniden üretilmesine katkıda bulunur.

Bu çerçevede, bir diğer önemli husus ise Avrupa'nın iç güvenliğine dair konuların "dışsallaştırılması" yani iç güvenliğe dair konuların kaynaklarını ve çözümlerini Avrupa dışında aramak, Avrupa sınırlarına ulaşmadan "halletmek" dir. Bu ise iki ana kategoride toplanabilecek çeşitli teknikler ile gerçekleştirilmektedir. Bu kategoriler: önleyicilik ve takiptir. Birliğin genişlemesi veya Avrupa Komşuluk Politikası gibi dış politika enstrümanları da buna göre şekillendirilmektedir. 2004 yılındaki genişleme dalgası yeni üyelerin sınır güvenliği kapasitelerine dair endişeleri arttırmış ve bir güvensizlik duygusu söyleminin doğmasına yol açmıştır. Dolayısıyla, Tampere'den itibaren, müstakbel üyelerin politikaları ve uygulamalarını değiştirmek ve disipline etmek için, göç ve sınır güvenliğine dair kaygılar ve dışsallaştırma teknikleri resmi olarak AB politikalarına dahil olmuştur. Uluslararası hukukta, özellikle de mülteci hukuku alanında meşru bir dayanağı olmayan geri kabul antlaşmaları ve güvenli üçüncü ülke pratikleri AB'nin dışsallaştırma araçlarının başlıcalarını oluşturmaktadır. Bu gelişmeleri, özellikle 2000 ve takibeden yıllarda, bir çok akademisyen Avrupa toplumlarında uzaktan yönetim veya ağlar vasıtasıyla yönetim olarak adlandırmıştır. Bu pratikler güvenliğin farklı yöntemler ile sağlanması üzerine inşa edilmiştir ve hedeflerin, teknolojilerin, kontrol noktalarının, güvenlik anlayışının değişmesi anlamına gelmektedir. Dahası bu değişen pratikler, AB üyesi ülkeler ile illa da benzer tecrübelerden geçmiş olmayan, veya aynı tür yönetimlere sahip olmayan ülkelere ihraç edilmektedir. Bunların başında doğu Avrupa ülkeleri bulunmaktadır. Bu sürecin bu ülke toplumları için doğuracağı sonuçlar yeterince araştırılmamaktadır.

Bu çerçevede, iç güvenlik alanının söylemsel inşası yanında, "yönetimsellik" yaklaşımına uygun olarak, gündelik pratiklere, özellikle güvenlik bürokrasisinin mutad işleyişine ve değişen güç ilişkilerine daha derinlemesine bakmak gereklidir. Modern toplumlarda bireylerin sistemin devamını sağlayacak birer olarak inşası sürecinde takip önemli bir yere sahiptir. Foucault bunu disiplin yönetimi ile açıklamakta, toplumda kategorilere ayrılan, 'uzmanlaşmış' kişilerin hem kendi şekillendirilme süreçlerini, hem de bunun sonucu yaptıkları işleri çok

önemsemektedir. AB'nin sınır güvenliği politikaları çerçevesinde de yeni gözetleme ve takip mekanizmaları geliştirilmektedir.

Türkiye bu çerçevede örnek bir vakıa teşkil etmektedir. Özellikle AB'nin iç güvenlik alanının dışsallaştırılmasında, göç ve sınır güvenliği konularında hem söylemsel oluşumların hem de değişen pratiklerin incelenebileceği bir vakiadır. Bu açıdan bakıldığında, bu çalışma Türkiye-AB ilişkilerinin de karmaşık bir okumasıdır. Orta ve doğu Avrupa ülkelerinden sonra şimdi de Türkiye AB'nin politikalarının ihrac edileceği ülke konumundadır. Ancak, Türkiye-AB ilişkilerinde, diğerlerinden farklı olarak halen dışlayıcı ve sorunlar üzerine kurulu bir söylem hakimdir. Bilhassa göç konusunda bu daha belirgindir. Ancak, AB-Türkiye ilişkilerinde göç ve sınır güvenliği alanında çok daha yaygın ve karmaşık ilişkiler ağı ortaya çıkmaktadır. Türkiye'nin nihai üyeliğinden bağımsız olarak normlar, uygulamalar, teknikler değişmektedir, tüm bunlar değişen söylemsel alan ve pratikler anlamına gelmektedir.

Ancak Türkiye örneği AB'nin ihrac ettiği pratiklerin kategorik olarak liberal veya baskıcı olarak külliyen sınıflandırılmasının mümkün olmadığını göstermektedir. Tam tersine, AB bir yanda belli bir liberal mantığın ve iş yapış tarzının ihracını hedeflemektedir, aynı zamanda da birliğin etrafında bir güvenlik ağı oluşturma gayreti içerisinde. İlk olarak, AB Türkiye'den örnek bir Westphalia devleti olmasını, sınırlarının tamamına hakim olmasını, sızmaların önlenmesini istemektedir. Tabii burada hayali bir hakimiyet durumu söz konusudur, devlet belli bir toprak üzerinde sınırsız bir control sahibi olan bir aygıl olarak tahayyül edilmektedir. Diğer taraftan, AB, Türkiye'den, demokratik ve liberal bir ortam sağlayarak, kendi vatandaşlarının mülteci olmalarını önlemesini beklemektedir. Bunun için de en temel araç Kopenhag Siyasi Kriterlerine uyum zorunluluğudur. Türkiye'de yeni bir sınır algılaması, yeni bir 'iç' ve 'dış' yaratılmaktadır. Dolayısıyla, AB Türkiye'den, bir polis devleti olmak yerine, kitleleri liberal araçlar ve yöntemler ile yönetmesini beklemektedir. Ancak, kurmak istediği sistemde, herhangi bir mülteci veya kaçak göçmenin Türkiye sınırlarından AB'ye

geçmeyi başarması halinde, Türkiye tarafından geri kabul edileceği, belli kural ve standartlara uygun bir şekilde davranılacağını garanti etmeye çalışmaktadır. Bu ise Türkiye'nin hukuki altyapısında bir çok değişiklik sonucu gerçekleşebilecektir. Bunlardan ilki Türkiye'nin 1951 Cenevre Sözleşmesi'ne uyguladığı coğrafi sınırlamanın kaldırılması, bir diğeri ise AB ile bir geri kabul antlaşması imzalanmasıdır. Bu geri kabul antlaşması sonucunda Türkiye toprakları üzerinden AB'ye girmeyi başaran Türk ve yabancı ülke vatandaşlarının hepsi Türkiye'ye iade edilebilecek ve Türkiye bu kişileri geri almayı taahhüt edecektir. Bu süreçte Türkiye'nin güvenli üçüncü ülke olarak ilan edilmesi ise Türkiye'ye iade edilebilecek kişilere iltica başvurusunda bulunanların da dahil olmasını sağlayacaktır.

Bu süreçte AB, Türkiye'de kapasite inşasına yönelik bir çok projeye finansman sağlamaktadır. Bu sayede Türk bürokrasisi ve sivil toplumu proje mantığı ile tanıştırmakta, kısıtlı bütçe ile verimlilik ve etkinlik kaygıları ön planda olarak bir sonuca nasıl ulaşılabileceğine dair aşinalık yaratılmaktadır. Yine Türk güvenlik bürokrasisinin Avrupalı meslektaşları ile bir araya gelerek sosyalleşmesi sağlanmakta, insan kaynaklarını geliştirmeleri, 'daha sağlıklı' bir işbirliği yapabilmeleri için gündelik iş yapış tarzlarını Avrupa ile uyumlu hale getirmeleri beklenmektedir. Örneğin, Türkiye'de İçişleri Bakanlığı ve Gümrük Müsteşarlığı'nda risk analizi birimleri kurulmuştur ve buradaki çalışanlara risk mantığı, risk yönetimi konuları aktarılmaktadır.

Diğer taraftan, Türkiye'de kabul ve geri gönderme merkezlerinin kurulmasına yönelik AB fonları ile projeler gerçekleştirilmektedir. Bu merkezlerin mülteciler ve kaçak göçmenlerin Türkiye'de kaldıkları müddetçe ikamet ve işleri için tasarlanmış ve burada kalanların dışarıya çıkmadan ihtiyaçlarının karşılanacağı yerleşkeler olması planlanmaktadır. Bu sayede, Türkiye AB'deki sınır güvenliği uygulamalarının küçük bir örneği ve Avrupa "ban-opticon"unun bir parçası haline gelmektedir. Bu illa olumsuz bir sonuç doğacaktır demek değildir, ancak mülteci ve göçmenler açısından "riskler" taşımaktadır. Bir yanda Türkiye'deki mevzuat ve

uygulama daha öngörülebilir hale getirilmeye çalışılmaktadır, ancak diğer taraftan da Avrupa'nın kabul merkezleri kurmak veya geri kabul anlaşmaları gibi uygulamaları uluslar arası mülteciler hukukundaki yerleşik haklardan geriye gidilmesi, mültecilerin korumaya ulaşmalarının zorlaşması hatta imkansızlaşması anlamına gelebilmektedir. Dolayısıyla, Türkiye daha önce merkezi ve doğu Avrupa ülkelerinin geçtiği süreçlerden geçmekte, bir yandan sınırlarını kaçak göçmenlere kapatmak diğer taraftan mültecilerin korunmasına gayret etmek gibi zaman zaman birbiriyle çelişen talepleri yerine getirmeye çalışmaktadır. Türkiye için durum önceki aday ülkelerden daha da karışıktır, zira üyelik müzakerelerinin sonucu belli değildir, müzakerelerin “açık uçlu” olduğu ısrarla tekrar edilmektedir. Yine Türkiye'nin bulunduğu coğrafya, İran ve Irak gibi birçok mültecinin kaçmakta olduğu ülkelere komşu olmasından dolayı, durumu daha karmaşıktır. Diğer taraftan Türk bürokrasisi bir yandan insani standartlar hakkında bilgilenirken, diğer yandan ise Avrupa'da kaçak göçmenler ile ilgili oluşan ve gittikçe artan “paranayokça” ortamdan etkilenmektedir, Avrupa'nın Türkiye'yi kaçak göçmenlerin iade edileceği ve bırakılacağı bir ülke olarak gördüğü hissiyatına kapılmakta, bu durum ise kazanılan insani hassasiyetleri tehlikeye düşürme potansiyeli taşımaktadır.

Bu çalışmanın metodolojisi iki unsur üzerine kuruludur: Bunlardan ilki Türkiye'de başlamış ve İngiltere'de devam etmiştir. Teorik çerçeve literatür taraması üzerine inşa edilmiştir ve tezin temel argümanları bu literatürden doğmuştur. Literatür taraması sürecinde AB çalışmaları ,eleştirel güvenlik çalışmaları, post-yapısalcı ve Foucault'cu çalışmalar taranmıştır. AB'nin hukuki metinleri, Komisyon ve Konsey'in kararları temel kaynakları oluşturmuştur, ve bunlar bu alandaki AB'nin söylemini ortaya koymada temel işlev görmüştür.

Diğer taraftan, ampirik boyut ise metodolojinin ikinci ayağını oluşturmuştur. Bu ise ikiye ayrılmaktadır, birincisi iç güvenlik alanının yönetmede AB'nin geliştirdiği ve uyguladığı yöntem ve tekniler ile Türkiye'nin örnek vakıa olarak incelenmesidir. Türkiye örneği AB'nin uygulamaladının ve mantığının açık bir

şekilde anlaşılacağı bir örnektir. Bunun için de yine birincil kaynaklardan ve ilgili bürokrasi ile mülakatlardan faydalanılmıştır.

Bu tez altı ana bölümden oluşmaktadır. Giriş bölümünü takip eden ikinci bölümde iç güvenlik alanının tarihsel gelişimi anlatılmaktadır. Adalet, özgürlük ve güvenlik alanının oluşturulması bir çok metinde temel hedef olarak ortaya konmaktadır, bunun ise tarihsel bir arka planı vardır. Bu tarihsel süreç içerisinde öncelikler ve araçlar değişmiştir. Sınır güvenliği ve “telafi edici” önlemler zaman içerisinde güvenliğin sağlanması için olmazsa olmaz halinde resmedilmeye başlanmıştır. Tüm bunlar ise söylemsel düzlemde sınır, göç ve güvenlik arasında gittikçe artan bir bağ yaratmıştır. Tarihsel gelişim incelenirken göze çarpan bir husus ise eski işbirliği metodlarındaki sorunların Birlik çatısı altına doğrudan aktarılmasıdır. Örneğin eski sistemde gizlilik ve yasamanın ve yargının denetimine tabii olmamak eleştirileri AB için de uzunca bir müddet geçerli olmuştur. Amsterdam sonrasında daha da aktif hale gelen Birlik, beş yıllık planlar hazırlamıştır ve bu planlarda genellikle güvenlik söylemi ve mantığı güzelce formüle edilmiştir.

Bir sonraki bölüm ise çalışmanın teorik altyapısını izah etmektedir. Soğuk Savaşın sona ermesiyle güvenlik kavramı tartışılır hale gelmiştir ve yeni yaklaşımlar doğmaya başlamıştır. Bir yanda yumuşak sorunlar olarak da adlandırılan ve genellikle küreselleşmeden doğabilecek konular yeni güvenlik sorunları olarak formüle edilirken, diğer yanda güvenlik kavramını daha temelden sarsacak yaklaşımlar doğmaya başlamıştır. Avrupa bağlamında ise ortak tehdidin ortadan kalkması, yeni aktörlerin ortaya çıkması ile Avrupa genelinde güvenlik yönetişimi tartışmaları doğmuştur. Ancak yönetim kavramı Avrupa'daki bir gelişmeyi tasvir etmekte başarılı olmasına rağmen yüzeysel bir yaklaşımdır, eleştirel olarak değişimleri sorgulamamaktadır. Diğer yandan eleştirel güvenlik çalışmaları başlığı altında farklı çalışmalar ortaya çıkmıştır. Bunlar Galler, Kopenhag ve Paris okulları olmak üzere üç ana başlık altında toplanabilir. Galler okulu güvenlik kavramını daha çok Marksist bir perspektiften ve temele özgürleşme kavramını koyarak incelemiştir. Kopenhag ise farklı ontolojik

görüşlerin bir araya geldiği bir okul olmuş, güvenliğin bir yandan sorgulanması ve alanının genişletilmesini savunurken, diğer yandan merkezine devleti oturtturarak geleneksel güvenlik çalışmaları ile benzer sonuçlara varmıştır. Ancak başka çalışmalarda Kopenhag okulu “güvenlikleştirme” kavramını icad ederek güvenliğin aslında söylem ile yakından alakalı olduğunu, başarılı bir söylemsel inşaanın bir konuyu güvenlik meselesi haline getirebileceğini belirtmiştir. Son olara ise Paris okulu, özellikle Avrupa’daki gelişmeleri incelemeyi seçmiş, bunları anlamak için daha disiplinler ararası bir yaklaşımın, söylemdense pratileri incelemenin gerekliliğini savunmuştur. Bu tez de Paris okulunun kaygılarını paylaşmakta, Avrupa’daki gelişmeleri anlamlandırmaya çalışmaktadır.

Bir sonraki bölüm ise somut olarak AB’deki göç ve sınır güvenliği alanındaki gelişmeleri incelemektedir. AB’nin pratikleri bu alanda daha çok uzaktan yönetim ve dışsallaştırma yönündedir. Bu bölüm yönetimsellik çalışmalarına paralel olarak öncelikle AB’nin bu alandaki zihin dünyasını yorumlamayı hedeflemektedir. AB’nin göçe bakış açısı doğrudan bir tehditten çok bir risk yönetimi şeklindedir. Liberal bir ekonomide sınırların mal ve insanların geçişine kapatılmasının imkansızlığı aşıkardır. Tam tersi temel sorun sınırların hem güvenli hem de hızlı işlemesi dir. Bunu sağlamak için de risk yönetimi teknikleri geliştirilmekte, riskler belirlenerek, AB’ye ulaşmasının seviye seviye engellerle önlenmesine gayret edilmektedir. Göçmenler ve mülteciler de risk grupları olarak kategorize edilmektedir. Yine bu süreçte modern teknolojiden fazlasıyla istifade edilmekte, çeşitli very bankaları geliştirilmekte, bunların işlerliği sağlanmakta ve gündelik hayata dair bir çok kişinin bilgileri bu very bankalarında tutulmaktadır. Aynı zamanda bu pratikler AB’nin çevresindeki ülkelere de aktarılmaya çalışılmaktadır. Bu ise kaçınılmaz olarak toplumsal ilişkileri yeniden düzenlemekte, yeni güç ilişkileri doğurmaktadır.

Bir sonraki bölüm Türkiye’yi bir örnek vaka olarak alarak incelemektedir. Türkiye 1999 yılında AB’ye aday ülke ilan edilmiştir ve 2004 yılında müzakerelere başlaması kararı alınmıştır. Tarihsel olarak da Türkiye birçok insane hareketinin yaşandığı biğr coğrafyada bulunmaktadır. Ancak AB

üyelik süreci bu insane hareketlerini algılayışı ve bunların nasıl yönetileceğine dair pratikleri değiştirmektedir. Türkiye'deki değişim genelde literatürde Avrupalılaşıma kavramı ile açıklanmaktadır. Ancak Avrupalılaşıma kavramı eleştirel bir bakış açısı taşımamakta, değişimin ne gibi kazananlar ve kaybedenler yarattığı ile ilgilenmemektedir. Türkiye özelinde güvenlik bürokrasisinin pratikleri değişmekte, risk yönetimi mantığı ihraç edilmeye çalışılmakta, yeni iş yapış yöntemleri gelişmektedir. Sonuç bölümü ise tezin bulgularını tekrar etmektedir.