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Filtering Out the Risky Migrant
Migration control, risk theory and the EU

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1 Introduction

In 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 (Adamczyk 2004). In Spain, the SIVE (Integrated External Vigilance System) employs more than 300 Spanish border guards working with patrol boats, helicopters, radars and infrared cameras to scan the coastlines, spotting even the smallest boats crossing the Mediterranean in order to stop them before they hit Spanish soil (Intellibridge 2004). Last year, Italy announced that it had purchased five Predator drones to patrol the borders of the Libyan desert. Hitherto reserved for American military operations, these unmanned aerial vehicles (UAV) carry the latest surveillance equipment and potentially offensive weapon systems (Dietrich 2004: 4).

Political disputes over asylum and immigration issues in Europe expose a core dilemma faced by policy-makers: 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? On the one hand, global market forces and increased human mobility have made it increasingly difficult for a state to assert effectively its traditional sovereign right to control who may or may not enter its territory. On the other hand, the many attempts to boost immigration control run counter to the humanitarian principles of most liberal democracies, risk infringing human rights and refugee protection principles and present obstacles to the 'welcomed migrants', the tourists and business travellers. At a point in modern history at which the possibility for human mobility is at a peak, so are the constraints faced by nation-states in attempting to control it.

Taking as its case the developing common EU asylum and immigration policy, this article explores the particular rationale and strategies underlying current attempts to achieve migration control at the EU level. At the 1999 EU Tampere

summit, the first comprehensive strategy on asylum and immigration was presented. The conclusions emphasized the importance of international human rights and refugee protection instruments and the avoidance of public xenophobia. Yet so far, the bulk of the policies that have been implemented have focused on increasing border control, electronic cataloguing of immigrants and asylum-seekers, and attempts to expand migration control beyond EU borders. How can this disparity be reconciled?

Explaining migration control

Some scholars view the salience of migration control as the inevitable result of the simultaneous increase in the propensity for immigration towards Europe and the decline in the absorption capacity of receiving states because of globalisation and modernisation (Castles and Miller 2003). However, the continued restrictive policies seem irrational when considering that Europe is facing a demographic crisis that is likely to reduce the population of the old 15 EU countries by 40% by the end of the century (Lutz 2003: 1991).

Others have claimed that Europe is waging a 'war on refugees' (Fekete 2005). Migration becomes 'securitised' as immigration is increasingly seen as a threat to the cultural or social fabric of European states (Bigo 2000; Wæver et al 1993). Yet, unlike the 'war on terror' which has been declared repeatedly, this war is largely conducted tacitly. The alleged 'securitisation of migration' is far from evident in public EU discourse, and is at best complemented by an equally important representation of migration as a humanitarian or human rights issue (Lahav 2003: 103; Munster 2004: 5; Furuseth 2003: 91). As such, even dedicated attempts at this line of analysis run the danger of conceptual overstretching and consequently of becoming self-referential (Huysmans 2002: 59; Constantinou 2000: 288).

In place of the above, the present article attempts to introduce a risk-based framework for understanding the salience of migration control. Using Ulrich Beck's theory of the risk society as a heuristic tool, it is argued that the current policy development may be understood as a trade-off between different 'risks'. On the one hand, the classic notion of border control is being reinvented as a migration management regime, in which a set of concentric 'risk filters' are introduced to identify the 'risky' from the 'non-risky' migrant. On the other hand, these very control policies create new dilemmas, entailing a subsequent loss of control, either in the realm of migration or with regard to more general issues, such as adherence to liberal values and standards of human rights.

The proposed framework suggests that we need to appreciate not just the surge but also the qualitative reorientation of migration control. In applying a risk approach, the aim is to provide a deeper understanding of the inherent dilemmas embedded in the realm of migration policy. In attempting to control migration, policy-makers are not only forced to choose among mutually exclusive policy options, but also to take constantly into account the potential

new risks arising from whatever policy is being pursued. In this 'reflexive logic', migration policy is increasingly being dominated by what could be called a 'risk management ethos', in which migration control methodologies are being transformed in response to the increasing impossibility of satisfactorily regulating transborder flows.

2 Migration control and risk theory

Introducing a risk-based framework for understanding migration control, it may be useful to recapitulate some of the core concepts through which the notion of risk has been derived in the sociological tradition.

The central tenet in Ulrich Beck's theory of late modern societies is the point that, through globalisation, they are becoming a problem for themselves (Beck 1992: 11, 2000: 21). According to Beck, globalisation entails:

> 'the overturning of the central premise of the first modernity: namely, the idea that we live and act in the self-enclosed spaces of national states and their respective national societies…. Money, technologies, commodities, information and toxins 'cross' borders as if they did not exist. Even things, people and ideas that governments would like to keep out find their way into new territories.' (Beck 2000: 20)

This view of globalisation entails a twofold deviation from the classical view of the state controlling whoever may enter its territory. First, states now realise that economic power has transcended their immediate control. In the transnational flow of both people and goods, states are no longer free to define whom they consider unwanted immigrants, as corporate business travellers, international consultants, tourists and customers must be able to travel freely for states to be able to participate in the global economy (Guild 2004: 34). Second, the global infrastructure that has been developed to serve economic globalisation has also served to facilitate the flows of another class of migrants, the 'unwanted migration'. As Bauman points out, the present world contains unprecedented possibilities for mobility, yet the motto 'divided we move' applies, as the degree of mobility has stratified the world into two – one for 'tourists' and the other for 'vagabonds' (Bauman 1998: 87).

However, this neat division is becoming increasingly difficult, as the 'vagabonds' share the same physical space as the 'tourists'. Perfect immigration control, 'Fortress Europe', is an imaginary concept, as it is physically impossible to erect a set of perfectly sealed borders. In addition, all attempts to increase immigration control contain within them the risk of obstructing 'wanted flows', as businessmen and tourists are forced to negotiate exceedingly laborious control exercises.

For Beck there is no doubt that we have long been living in a 'world society' in which no country or group can shut itself off from others (Beck 2000: 10). Globalisation, in his use of the word, describes 'the processes through which sovereign national states are criss-crossed with varying prospects of power, orientations, identities and networks' (Beck 2000: 11). Thus, a defining characteristic of globalisation is the way it brings about a realisation of new unpredictabilities. One could argue that migration has always been an issue of control, something touching on the sovereign rights of states.[1] Yet in an age of globalisation the risks of migration are exacerbated as the impact of migration on issues such as national identity and the welfare state appears even more opaque and the potentially negative consequences of restrictive migration policies slowly move into focus.

Reflexive rationality and risk-oriented action

This is what Beck refers to as the concept of *reflexive modernisation*.[2] As the realisation grows of 'risks' constantly being produced as 'latent side effects' of modern and globalised societies, policy-makers are forced into a new rationality centred around a risk logic (Beck 1992: 13, 34).[3] In this rationality, solution-oriented and distributional politics are eclipsed by the constant considerations to and management of the risks produced by human development and political action.[4]

The reflexive rationality imposing itself on migration issues underlines the inherent dilemmas of migration policy both in relation to other issues and to the control logic itself. As with any other area of regulation, there are a number of more or less foreseeable negative consequences related to stepping up control measures (Vedsted-Hansen 1999: 27). Beyond the tensions mentioned above, immigration control raises ideological concerns, as control policies risk infringing human rights standards, specific international legal obligations and humanitarian principles, all of which are symbolic of certain values that we

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[1] In his work on the Law of Nations, Emmerich de Vattel points to the sovereign right of a state to control who may or may not enter its territory, as any absence of such a right would constitute a security threat in opening the borders of the state to invading armies (de Vattel 1883: book 1, Ch. XIX, par. 231)

[2] The concept has been developed in conjunction with the sociologists Scott Lash and Anthony Giddens. See in particular their common book *Reflexive Modernization: Politics, Tradition and Aesthetics in the Modern Social Order* (Cambridge. Polity Press, 1994).

[3] As Beck defines it, risks are in this sense a 'systematic way of dealing with hazards and insecurities produced by modernization itself' (Beck 1992: 21)

[4] Some scholars have noted how the presence of '1st order risks' may induce '2nd order risks' from the actions taken to prevent or take precautions against the original risk (Luhmann 1991: 39). Examples of this dynamic can be found in the medical world, in which antibiotics are used to control inflammations. Yet in the eagerness to speed and ensure medical recovery, there is an equal risk of inducing resistant bacterial strands, thus creating an endless race between bacterial evolution and pharmaceutical science.

seek to uphold (Vedsted-Hansen 1999: 28).[5] As Legomski notes, migration becomes a self-identificatory test:

> '[I]mmigration laws are about as central to a nation's mission as anything can be. They are central because they literally shape who we are as a people. They are central also because they function as a mirror, reflecting and displaying the qualities we value in others. For both reasons, decisions on immigration policy put us to the test as no other decisions do. They reveal, for ourselves and the world, what we really believe in and whether we are prepared to act on those beliefs.' (Legomski 1993: 335)[6]

Secondly, migration policy seems to contain an internal reflexive dilemma. Many migration control measures seem inadvertently to create a simultaneous loss of control. This is seen most clearly in the case of 'illegal migration', which is increasingly used within the European Union to justify control-oriented policy responses. On a discourse level, the term itself reinforces the designation of migration as criminal elements and thus 'risks' that must be controlled (Ceylan and Tsoukala 2002: 28ff). Further, as stricter control measures are enacted there is a very real risk that more asylum-seekers and migrants become precisely illegal immigrants, resorting to human smuggling, traffickers and other illicit means of travel. This in turn enforces the industry of human trafficking and smuggling, which is thought to be one of the fastest growing sectors of transnational organised crime (NCIS 2001: 33).

Thus, when deciding on specific policy measurements in relation to issues such as migration, policy-makers are increasingly forced to evaluate not just the effectiveness but also, and often more importantly, the potential risks that different political actions might generate. In other words, politics is moving away from a simple means-end rationality and towards a reflexive rationality, in which it is no longer 'present actions that are to produce future results, but perceived future results that produce present actions' (Vedby Rasmussen 2001: 293).

The end of the 'other'

An important consequence of a reflexive modernity is that the relational means of self-identification eventually become meaningless. Contrary to the picture of

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[5] There is a parallel here with the debate on the terror legislation currently being passed in most European countries, which inevitably creates a number of risks to the personal freedom, privacy and human rights of citizens and foreigners alike (Samers 2004: 103).

[6] Beck makes a similar point when noting that all risk contains a sort of 'mathematicized morality', in which the 'probability computations or accident scenarios' are transformed into cultural value statements, forcing us to ask the question: 'How do we want to live?' (Beck 2000b: 215).

the immigrant as a 'dangerous other' proposed by constructivist security scholars, Beck argues that reflexivity entails an 'end of the other' (Beck 1992: 62). In the case of migration, this can be seen first in the way that the reflexive dilemmas mentioned above force policy-makers to consider not just the risk of migration, but also the risks of migration *policy* as this reflects our own cultural values and beliefs (Legomski 1993: 335). Yet Beck's point also contains another dimension, one more intricately connected to the subject matter. As Huysmans points out, the migrant draws his or her political significance from 'articulating a liminal position' (Huysmans 2000: 150f).[7] When speaking of second-generation immigrants and the family reunification of immigrants with European citizens, it becomes impossible to draw up neat distinctions between the 'immigrant' and the 'indigenous person' as the migrant signifies precisely the 'possibility of the impossible position of simultaneously belonging and not belonging' (ibid.). Thus, within a reflexive rationality, the 'self-other' dialectic is conflated as policies are at a constant risk of *othering the self* by challenging categorisations such as 'political membership', 'nationality' and ultimately 'national identity'.

My point here is that migration has become a major policy issue, not because it has become inscribed into a securitised self-other dialectic, but rather because this distinction, which in the case of migration is as old as the nation-state, becomes increasingly difficult to uphold in global and reflexive societies. It is exactly because migrants challenge the neat distinction between 'Us' and 'Them' that migration policy enjoys the priority it has in many countries today.

Risk as 'real virtuality'

Within a reflexive rationality, the risk of migration assumes a different temporal dimension signified by a *'presence of the future'*, in which prospective immigration scenarios become the stimulus for present action (Vedby Rasmussen 2001: 293). As Beck points out, risks are essentially about anticipation (Beck 1992: 33). In this sense, risks are both 'real' and 'unreal'; although they signify a 'not-yet-event' that may not even happen, they carry a practical relevance by designating and prescribing present action (Beck 1992: 34). The 'real virtuality' arises as the risks are indeed constructed into reality. As Loon points out, 'only by thinking of risks in terms of reality, or better, as becoming real (a virtuality) its social materialization can be understood' (Loon 2000: 176). Although the definition of risks rests on a constructivist framework, the praxeological dimension of risk theory draws equally on realist assumptions (Beck 2000b: 213).[8]

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[7] Giorgio Agamben makes a similar point: 'the refugee must be considered for what he is: nothing less than a limit concept that radically calls into question the fundamental categories of the nation state…' (Agamben 1998: 134).

[8] Beck's concept of 'real virtuality' may be seen as an attempt to take the middle ground in a debate between what Deborah Lupton has called the 'realist' and the 'strong constructivist'

To some extent, risks may draw their significance from existing concerns and knowledge, which are then expounded into a *'risk calculus'* (Beck 1992: 33). In the case of migration, otherwise negligible concerns over present migrant communities or singular events tying migration to threats such as terrorism are multiplied as a foreboding of the risks that may come from future immigration and the prolongation of existing problems (Ceylan and Tsoukala 2002: 22). At the core of migration policy is thus, and has likely always been, a preventive action stimulated by the prospects of *future*, rather than present, migration.[9]

The above dynamic points to another effect of treating migration through a risk calculus – the increasing conceptualisation of migrants and refugees in terms of *flows*. As risks are increasingly defined through 'probability statements', migration policy is no longer geared towards the individual claims of migrants but towards larger groups or collectivities (Beck 1992: 29). The conceptualisation of migration as flows may reflect first a more general move in a globalised world towards replacing the 'logic of structures' with a 'logic of flows' breaking down temporal and spatial thresholds, and secondly a change of referent in migration policy from the migrant to the polity (Loon 2001: 173f).

As such, the *flow* conceptualisation stands in sharp contrast to the liberal conceptualisation originating in human rights and emphasizing the individual rights of refugees, migrants and citizens alike. In a sense, both regimes are centred on a risk logic, yet whereas the first is concerned with the 1st order risk of opening our societies to risky categories of migrants, the second is concerned with the 2nd order risk of rejecting individuals having 'a serious fear of persecution' (Article 1 of the Refugee Convention) or 'facing inhumane and degrading treatment' (Article 3 of the Convention Against Torture). The emphasis on different future risk scenarios becomes a 'definitional struggle over the scale, degrees and urgency of risks', which is the defining characteristic of politics in the risk society (Beck 1992: 46).

Migration policy as risk management

If migration is increasingly perceived in terms of risk, migration policy is increasingly embedded in a logic of *risk management.* In late modern societies

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position within risk theory (Lupton 1999: 17ff). Whereas the former (exemplified by probability and technical sciences) works solely within a framework of objective risks 'out there', the latter (exemplified by Foucault) tends to focus entirely on the social constructions of risk taking. For Beck's own comments in respect of both these traditions, see Beck 2000b: 211ff.

[9] Examples include the promise made by UK Prime Minister Tony Blair in February 2003 to cut the number of asylum-seekers by half over a six-month period and similar promises by the Danish Minister for Refugees, Immigrants and Integration Bertel Haarder, when assuming office in 2001 to reduce the number of family reunifications by two thirds.

risks are no longer avoidable, thus forcing policy-makers to manage the *process* rather than seek particular ends (Vedby Rasmussen 2001: 292). As traditional border control proves more and more inept, the objective of risk management moves from 'a concern to treat individuals' to a focus on 'classifying groups according to the dangers they pose to society and manage them accordingly' (Coker 2002: 62). A management ethos requires that migrants are not only traced and catalogued according to institutional categorisations such as 'Convention refugees', 'tourists' and 'illegal migrants', but also cross-examined according to the specific risks they might pose with respect to illegally overstaying visas, transnational crime or terrorism (Bigo and Guild 2004: 30).

Secondly, working within the changed temporality noted above, risk management institutionalises a strategy that seeks simultaneously to *prevent* and *hedge* against migration risks. 'In a proactive or pre-emptive age' we 'no longer react to threats so much as attempt to pre-empt them' (Coker 2002: 74). Rather than waiting for migrants to arrive on our doorstep, migration policy is redirected towards countries of origin and transit. In place of traditional control mechanisms that reject unwanted migrants at the border, policies are enacted to prevent migrants from entering Europe or even to pre-empt the possibility for them to migrate (Baumann 1998: 9). To the extent that pre-emption fails, a hedging strategy is enacted that posits a concentric series of control mechanisms or *risk filters* aimed at the 'containment, confinement and dissuasion' of those who are considered 'risky migrants' (Coker 2002: 64).

3 The EU migration management regime

One prominent American scholar recently suggested that we live in an 'age of border control' (Zolberg 2004), thus pointing to one of the most characteristic features of current immigration policy in most liberal democracies. In 1995, the Clinton administration declared war on 'illegal migration' from Mexico by employing mile-long steel fences and helicopters with infrared search-lights (Fekete 2003: 2). Similarly, it is estimated that every year, the INS and Homeland Security Agency inspect more than 550 million individuals entering the US, a figure roughly twice the size of the current US population (Zolberg 2004: 10). In the context of the EU, increased border control has been regarded as a necessary prerequisite for the realisation of the Single Market. Illegal immigration, abuse of the asylum system, human trafficking and related networks are all consistently portrayed as risks that we need to shelter ourselves against (Samers 2004: 11). In response, a core element in European cooperation on asylum and immigration has been the development and implementation of common mechanisms to safeguard and control external European frontiers.

Yet, as I shall argue, border control has not merely been revitalised, it has been more profoundly transformed and reinvented. Border control today employs

different means and ultimately serves different ends than the traditional vision of border control as a symbol of Westphalian sovereignty. In a globalised world, the traditional ambition of perfectly controlling who enters the national territory becomes doubly impossible. First, in the global flows of people crossing borders, it is impossible for states to monitor all avenues or migrants. Secondly, if they attempt to do so, states are faced with the consequent risks of obstructing 'wanted flows', such as tourists or businesspeople, and pushing 'illegal migrants' further into the hands of clandestine travel agents.
Reacting to this, the traditional notion of 'border control' is being transformed into what one could call 'migration flow management'. The object of control is no longer the borders themselves but flows of migrants, no longer a first defence of sovereign territories but an ongoing process of identifying and preventing 'risky elements'. The means of achieving this are a combination of immigration surveillance and new forms of targeted and increasingly deterritorialised border control. Together they constitute a risk management regime through which migration flows across borders are regulated through the institutionalisation of a series of 'risk filters' serving to identify, isolate and deflect the *mala fide* from the *bona fide* migrant.

In the following, this article will first analyse the technological advances within migration control and the setting up of surveillance regimes such as the Schengen Information System and Eurodac. The article then explores some of the operational initiatives towards border control cooperation on the EU's eastern and southern frontiers. Lastly, it examines the EU visa policy and the use of carrier sanctions. All these elements point to the underlying risk logic guiding migration control and illustrate how control mechanisms are simultaneously extended to reach both within and outside EU territory.

3.1 Managing migration through surveillance

To some extent, surveillance or identity systems and migration have long been connected. As John Torpey points out, the passport represents a symbol of the 'monopoly of the means of movement' sought by nation states (Torpey 2000: 13). Similarly, the introduction of national identity cards by, for example, France in the 1890s was intended to keep certain categories of people from settling in the country illegitimately (Noiriel 1996: 45ff). Yet, today the conclusion seems to be that these measures never really achieved the original purpose of keeping out unwanted migrants (Lyon 2004: 5). In response, the new identity systems do not target the domestic population but the immigrants, thus serving as a proactive tool of migration management.

In the risk society, constant surveillance becomes the vehicle for all subsequent risk management (Coker 2002: 63). As Johnston points out, 'risk management is actuarial, proactive and anticipatory, the application of those principles requiring the collation and analysis of information obtained through the systematic surveillance of those at risk or likely to cause risk' (Johnston 2000:

56). Asylum-seekers and immigrants have been designated 'risk groups', as such becoming subject to ongoing surveillance and other modes of border control, both within and outside EU territory.

This section deals with the complex set of electronic databases currently being implemented in the EU, which are designed to categorise asylum-seekers, immigrants and other foreigners into different risk groups for further monitoring. As is argued, these systems not only serve to frame subsequent risk management by providing knowledge for risk analysis, they also act in themselves as techniques of power by structuring the actions of those encompassed. In sum, the new information systems form what Bigo has called the 'banopticon', sorting out who needs to be under further surveillance and who may pass freely (Bigo 2002: 80).

Eurodac

Since early 2003, any asylum-seeker entering the European Union has been forced to register in an EU fingerprint database, Eurodac, accessible to all national immigration authorities. This system was seen as a prerequisite for the proper functioning of the Dublin Convention by preventing multiple asylum claims within the EU (Council 2000). Early steps in implementing this system were taken in 1992, yet technological and political obstacles postponed ratification until 2000. Within its short lifespan it has become the role model for similar surveillance and control technologies, such as the Schengen Information System and Visa Information System dealt with below.

From an operational point of view, Eurodac has generally been characterised as a great success. The elaborate database housed by the Commission represents a daunting technological challenge. The central CPU is able to perform 500,000 fingerprint comparisons per second with an alleged precision rate of 99.9% (Steria 2003). As such, Eurodac represents a unique technological solution for migration management. During its first year of operation, 246,902 fingerprints of asylum-seekers were recorded and 24,671 of illegal immigrants and border crossers (Danish Parliament 2004: 54).[10] According to the EU Commission, 'it

[10] The Eurodac Regulation contains provisions for three categories of persons. The first, and most substantial, is asylum-seekers. Any Member State receiving requests for asylum on its territory is obliged to take the finger-prints of the person concerned and upload them into the common database. The requirement includes all asylum-seekers above the age of fourteen and unless the applicant is granted citizenship, the data is stored for a period of ten years. The two other groups include foreigners illegally crossing EU external borders (Article 8) and aliens found illegally present within EU territory (Article 11). For the first, fingerprints are kept for two years in order to enable comparisons with earlier or future asylum applications. The latter group is limited to examinations within the existing database, and these fingerprints are not subsequently stored.

is clear that in its first year EURODAC has been established as a front line asylum management tool for the EU' (Danish Parliament 2004: 54).

The thrust of Eurodac as a tool for migration control lies in its ability to frame certain asylum-seekers as risks justifying further control. Eurodac represents the EU's first attempt to utilise biometric data to assert control in the area of asylum and immigration, although this is foreseen to expand extensively. The Council recently decided to put aside an initial 140 million Euros to develop and integrate biometric systems in Eurodac and other systems (Bonditti 2004: 473). As Bonditti points out, biometric signifiers are ideal tools for migration control since they create a 'multileveled dispositive of control over people in a given territorial space through the setting up of complex database networks' (ibid.). Biometric systems enable the tracing of identity links across global spaces. Data exchange is consequently used as a vehicle for control by reducing the risk of fraudulent or illegal entry (Kjær 2004: 35). The stated purpose of Eurodac, namely to eliminate the phenomenon of 'asylum-shopping', is essentially aimed at preventing asylum-seekers who have already been rejected by other Member States. This aim is enforced with regard to the 'illegal immigrants' registered under Article 8, which are effectively pre-empted from the possibility of applying for asylum in the future.

The use of biometrics also highlights how migration surveillance is moving border control beyond the EU's actual frontiers. As was stated at one of the drafting meetings for Eurodac, 'the obligation to take fingerprints of aliens apprehended "in connection with the irregular crossing of an external border" is not limited to the external border itself' (Busch 1999: 1). Once in the register, identity checks can be performed everywhere within the territory and potentially by a range of other authorities than the border guard. In conjunction with UK plans for a national identity card, it is foreseen that police officers will progressively be equipped with scanning systems (Bonditti 2004: 473). Similarly, biometric information may be requested from registers in countries of origin or transit to the extent that these are available in order to trace the route by which asylum-seekers entered the EU.

The Schengen Information System

Despite its innovations, Eurodac was in many ways inspired by its older and substantially larger sibling. The Schengen Information System – a common database of stolen vehicles, weapons, false identity papers and notably unwanted immigrants – is often described as the most important technological compensatory measure for the opening of the internal borders (Karanja 2002: 3). Like Eurodac, the system is built on the principle of a central database (CSIS) in Strasbourg accessible by national authorities. Access and upload is

managed through the national parts (NSIS) and the SIRENE[11] bureaus, which are normally located within the respective national police headquarters (Danish Parliament 2004: 82). Access terminals have proliferated at great speed, from 55,000 in 1999 to approximately 125,000 in March 2003 (Hayes 2004b: 7). A 2001 Council estimate put the total number of records at 14.5 million, making the database the largest of its kind in Europe.[12]

However, a revision process is currently being implemented that is likely to bring substantial changes to the workings and applicability of this system. Since the original Schengen Information System (SIS) went online in March 1995, the incorporation of Schengen into the EU framework and the enlargement of the Union have meant that the technical limit of the platform to eighteen user states is about to be exceeded.[13] As a result, steps were taken in 2001 to introduce the technically improved SIS II to be functional by 2006 (European Commission 2001). Yet, more than expanding user capacity, the revision process has centred on possible extensions of the types of information held and rules regarding access.

In effect, the discussions marked a more substantial shift in how SIS was conceived, enhancing its capacity as a tool for risk management. As the Council argued:

> 'When the SIS was first created, its only purpose was to be a compensatory measure for opening of the borders. Ever since, and not in the least because the SIS has proven to be a useful and efficient tool, recognition has grown that the potential of the SIS could be maximised, mainly within the framework of police cooperation….[T]he idea of

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[11] Supplementary Information Request at the National Entries. In practice, NSIS and SIRENE work as independent units in each country. Information is filtered through SIRENE whenever alerts concern extraditions (Article 95) or discreet surveillance (Article 99). The creation of this alternative procedure was meant to facilitate the exchange of a broader set of information for apprehension and surveillance purposes directly between the national SIRENE. The legal base for this system remains contentious, as no explicit reference is made to SIRENE in the Convention (Karanja 2002: 7f). The Commission Communication on SIS II is the first official EU document to contain an explicit reference to the SIRENE, and may be taken as a sign that EU aims to solve the legal issue with the implementation of the second generation SIS (European Commission 2001: 6).

[12] Since 1999, access to statistical information has been limited. Additional figures from early 2003 suggest that a total of 877,655 persons were wanted at that particular time, the bulk of them, 780,922 persons, having entered under Article 96, covering asylum-seekers refused entry, including those refused on grounds of 'national security and public order' (Hayes 2004b: 6).

[13] Besides the fifteen EU Members up to 1 May 2004, Norway and Iceland participates. Even though the UK, Ireland and Denmark have exemptions regarding supranational JHA cooperation, Denmark is still a member of Schengen and the UK and Ireland have recently opted in regarding cooperation relating to the free movement of people, namely police cooperation and the SIS (Danish Parliament 2004: 80).

> using the SIS data for other purposes than those initially foreseen, and especially for police information purposes in a broad sense, is now widely agreed upon and even follows from the Council conclusions after the events of 11 September 2001' (European Council 2002)

Consequently, a range of proposals have been put forward to improve access to agencies involved in counter-terrorism and in combating organised crime by amending the original Schengen *acquis*. National security agencies already have the potential to have people entered in SIS for 'discreet surveillance and checks' where 'there are real indications to suggest that the person concerned intends to commit or is committing numerous and extremely serious offences, or…will commit [them] in the future' (Article 99(2)). Yet requirements to share evidence with other member states (Article 99(3)) have hitherto limited its application (Hayes 2004b: 7). General agreement exists, however, to remove this restriction, with further proposals to grant direct access to the database and establish a subset dedicated to 'terrorist suspects' (Hayes 2004b: 9).

Europol has likewise requested full access to the SIS archives in order to assist its efforts to combat organised crime (Hayes 2004b: 8). The current proposal is still pending and in its present form it does not include rejected asylum-seekers or immigrants under Article 96. However, like the above proposals, it clearly illustrates the risk management rationale whereby SIS has come to be perceived as an instrument to prevent organised crime and terrorism. SIS, and especially SIS II, is thus set to become the most prominent tool within the EU for speculative surveillance and policing of foreigners who are considered potential risks.

In essence, SIS is being transformed from a *reactive* to a *proactive* instrument. In the words of the then JHA Commissioner, Antonio Vitorino, the second-generation SIS will move from a mere 'reporting system' to an 'investigation system' in order to focus 'on the prevention and detection of threats to public order and security' (European Commission 2001: 1). It is no longer merely a catalogue but an active tool for predicting and identifying risks. As was noted in the discussion over SIS II, 'the idea being to identify possible threats from people who aren't known, and have no record, absolutely requires broad data capture, use and retention' (Lettice 2004).

Surveying the risk of migration

Both Eurodac and SIS should be contextualised within the growing number of similar databases being developed in the EU. Guidelines for a Visa Information System (VIS) have already been approved. This system is intended both to increase control within EU territory by stemming the number of 'undocumented illegal residents' overstaying their original visas, and to extend immigration control outside EU territory by granting access to the 3,500 EU Member State consular posts and setting up visa requirements for 'asylum-

seeking countries' (Samers 2004: 19; Furuseth 2003: 69). Secondly, following United States requirements to pre-screen all air travel to its territory (the Passenger Name Record scheme), the EU has agreed that European airlines provide information on the passengers of all transatlantic flights (Hayes 2004b: 27). Lastly, the increased use of biometrics in all immigration related matters is currently being debated. Biometrics are set to become a requirement following the US Homeland Security Visa Waiver Program (EU Observer 2004) and plans to include both facial scans and fingerprints in all EU passports by 2006 are currently backed by a majority of Member States (European Council 2004b).

Together, these initiatives are to form a new basis for risk-oriented migration management by institutionalising specific patterns of action across the Union. This was made very explicit by the Commission:

> 'The permanent process of data and information exchange and processing envisaged here is not a database or a computer network, or even an administrative structure. It is a procedure or code of conduct which, depending on the nature of information and of the risks identified, would aim to establish direct links and exchanges between the authorities concerned with security at the external borders'. (Commission 2003: 15)

The current developments within Eurodac and SIS demonstrate how cooperative surveillance arrangements have come to be perceived as a core tool for managing risks connected with asylum-seekers and immigration. The above strategy suggests that surveillance and monitoring come to serve as the foundation for all subsequent risk management related to border control and the extradition of foreigners. In this sense, it aids border control to move beyond its traditional responsive mode. As the borders of the Union are becoming both more extensive and more porous, the information gathered through Eurodac, VIS and SIS will be analysed to anticipate and prevent those posing a risk and their most likely points of entry.

As a result, migration surveillance has become centred on migration flows rather than the individual migrant's arrival at an EU border. Surveillance is not directed merely at the border, but at the migration process as such. Through these registers, migration control extends inwards, as checks can be performed by local authorities inside EU territory. But it also extend outwards, as information may be shared with intelligence agencies of non-EU countries or cross-checked with the asylum-seeker registers of bodies like the UNHCR to establish the true identity and origin of potentially fraudulent applicants. The use of these electronic identity systems means that identity checks can be performed anywhere. The holder of a Schengen visa or an asylum-seeker with his or hers fingerprints entered in Eurodac effectively amounts to a set of

'ubiquitous borders', as a frontier is reproduced whenever and wherever an identity check is performed (Lyon 2004: 2).

The banopticon of immigration control

A key characteristic of SIS, VIS and Eurodac is that they themselves represent an attempt to differentiate between those posing a risk and those who are free to travel. These regimes were never intended to monitor everybody, as is very evident from the clauses exempting EU citizens from being recorded in Eurodac etc. Rather, this form of surveillance is intended for the immediately designated risk groups only. In this sense, these systems mark a post-panoptic vision, or what Bigo has called the *banopticon*.[14] Unlike Foucault's panopticon, the banopticon should not be perceived by national constituencies as a 'Big Brother', because it only targets the few, the deviant and potentially dangerous outsiders (Bigo 2002: 82). The banopticon applies a set of profiling techniques to 'channel flows of information in order to control at a distance any who deviate from the coded norm' (Lyon 2004: 8). By means of technological developments it becomes possible to reconstruct all stages in the movements of migrants, through which the original picture of the would-be migrant or asylum-seeker is 'morphed' into a final picture of the risky migrant, the terrorist or human smuggler (Bigo 2004: 31). As a result, the individual migrant is aggregated into a proactive and anticipatory system that, with minimal effort and without any visible intrusions, may focus subsequent migration management on those who are predicted as being particularly risky (Bigo 2002: 82).

In essence, the banopticon of immigration control serves a two-fold purpose in relation to risk management. First, as noted above, it provides the necessary framework for further risk management action by serving as a basis for specialised knowledge in defining and categorising risk groups (Hindess 2001: 102). Secondly, it is itself what some scholars have called a 'technology of power', working preventively as a deterrent conditioning the possible actions of would-be asylum shoppers, illegal immigrants and other risky migrants (Miller and Rose 1990). Paraphrasing Foucault, there is a similar disciplinary effect to the banopticon, as '[h]e who is subjected to a field of visibility, and who knows it, assumes responsibility for the constraints of power' (Foucault 1979: 203). In the case of immigration, the institutionalisation of Eurodac may in itself prevent asylum-shopping, as asylum-seekers knowing they are registered refrain from launching multiple claims.

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[14] For a more detailed analysis highlighting similarities and differences between 'panopticon' and 'banopticon', see Bigo 2003.

The unease of surveillance

Yet, not even such a system is free from a certain reflexive dimension, bringing with it new risks and concerns. The public debate concerning these systems of surveillance has proved highly contentious and critics have argued that 'function creep'[15] is inevitable (Hayes 2004b: 3; Karanja 2002: 17). Even officials inside the Commission concur that '[no] single technology is a panacea'; biometrics is still in its infancy, and failures are likely to occur in a database of such proportions (Time Europe 2004; Lyon 2004: 6). Potential misuse of the data stored has been another issue, one that is even taken up by the Eurodac text itself. Article 1(3) of the Regulation stipulates that data must not be used for other purposes than those set out in Article 15(1) of the Dublin Convention, and as a result an independent monitoring body has been established (Danish Parliament 2004: 53). The attempts to introduce procedural and technological safeguards and the fact that EU citizens are exempted from figuring in this register support the argument that the founders of this system are well aware that despite its intentions, it may bring about an increased feeling of unease and insecurity for those concerned for their privacy and civil liberties.

Similarly, national SIS implementation has spawned criticism concerning data protection and human rights violations, some arising from the very attempts to ensure the above (Guild 1999b; Hurwitz 2000; Karanja 2002: 16). Both the Convention and the technological platform include a range of both internal and external safeguards and monitoring mechanisms. Independent supervision is carried out at both national and EU levels and the technical platform is built as an 'open loop system', which implies that data must be both entered and downloaded manually (Karanja 2002: 10ff). This perceived safety mechanisms may well prove its greatest weakness. As was discovered by the Danish Data Protection Agency, a staggering 68 out of 443 cases involving the entering into SIS of unwanted aliens under Article 96 were either entered or processed erroneously by the Danish authorities responsible (Datatilsynet 2005). Further, transparency has generally been lacking, with few statistics made publicly available and only a limited role of jurisdiction recognised for the European Court of Justice (Karanja 2002).

Thus, disagreement still exists within the Council as to whether the proposed regulations for improved access and additional information categories should be fully implemented. Yet, in an unusual move the Commission has decided to go ahead with the technological development of the platform without consulting other EU institutions further (Hayes 2004b: 3). This 'latent'

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[15] This term, which is more commonly used within the spheres of software programming and public regulation, has been defined by Jeff McLaughlin as 'a process in which one tool which is used for a particular reason, is applied to a new, usually larger, set of purposes' (McLaughlin 2003: 1). It is itself a symptom of the risk society, in which technological developments create new risks that are beyond effective control (Johnston 2000: 23).

development strategy assumes that the functions available will only be activated once 'the political and legal arrangements are in place' (Council 2003: 3). However, it may also be taken as an argument that in the political process of weighing and choosing particular risks, concerns over function creep and data security were rated the lowest.

3.2 New modes of border control

The Tampere summit confirmed that border control continues to be the most important aspect of the EU's strivings towards a common asylum and immigration policy (Furuseth 2003: 67; European Council 1999: par. 22.-27.). Regulations relating to border control as set out by the Schengen nexus presents one of the largest bodies of legislation, and current ambitions entail moving beyond merely harmonising practices towards supranational border management (Danish Parliament 2004: 79f). Present policies regarding border control have emerged largely in two areas. The first concerns the recent eastward enlargement of the Union and the importance assigned to reassuring the Schengen zone (Mitsilegas 2002: 665). The second concerns operational initiatives to cooperate on border management aimed at stemming illegal immigration. Both indicate that not only has border control reasserted its importance, its very nature has changed. In tandem with the new surveillance techniques described above, the operational initiatives involved in patrolling the EU's borders have moved into a more proactive and risk-based framework.

Schengen, border control and an enlarged Union

Although the recent enlargement of the EU was clearly carried out with a view to ensuring the continued strengthening and geopolitical importance of the Union, the enlargement also presented the EU with its biggest challenge hitherto in upholding the control of the external borders. Refugee flows in Eastern Europe following the Balkan wars brought forth the concerns of the original Member States over how to patrol effectively the thousands of kilometres constituting the EU's new frontiers to the east (Phuong 2003: 4f). Most accession countries have only recently become countries of asylum and few of them have substantial legislation in place. Further, the old east bloc countries do not have a history of border control as such; most border control was performed by the Soviet military, and not to prevent people from *entering* but from *exiting* (Monar 2001: 44).

Thus, Chapter 24 of the negotiation acquis relating to Justice and Home Affairs made it a *sine qua non* for the new Member States to reform radically their existing border control and implement the Schengen provisions (Mitsilegas 2002: 677; Lavenex 2002: 706). As stipulated, new Member States must:

> 'bring [their] institutions, management systems and administrative arrangements up to the Union standards with a view to implementing

> effectively the *'acquis'*, and in particular adopt and implement measures with respect to external border control, asylum and immigration, and measures to prevent and combat organised crime, terrorism and illicit drug trafficking'. (reproduced in Seiffarth 2000: 67f)

Interestingly, the obligations placed on acceding countries in relation to this issue far surpass those set out by the EU acquis as defined after Amsterdam. Acceding countries are now expected not only to adopt but also implement a range of third pillar instruments and 'the agreed elements of draft instruments which are in negotiation' (European Commission 1997: 7). Emphasis has been placed on implementing concepts of safe countries and accelerated procedures that have not yet been communitarised. Similarly, several resolutions and conclusions have been presented to the new Member States as binding, making some scholars argue that the enlargement process has been instrumentalised to 'harden' some of the soft-law of the past decade (Anagnost 2000: 386; Phuong 2003: 8).

Poland constitutes a prime example. The 1143 km of forest and mountain borders with Ukraine, Belarus and Russia pose a major source of concern for the EU (Phuong 2003: 15; Monar 2001: 42). Like many other acceding states Poland only signed the Geneva Convention in 1991, and her national legal framework for asylum and immigration was developed through the 1997 Aliens Act. That Poland would need help in reaching Schengen maturity became evident as early as 1993, when Germany contributed DM 120 million to reinforce Polish border controls and policing in exchange for Poland signing a bilateral readmission agreement (Monar 2001: 44; Lavenex 2002: 711).[16] The 1997 asylum and immigration framework was explicit in its references to EU developments, and Poland introduced safe country regulations towards all its neighbours to the east (Lavenex 2002: 711).[17] Since then, the EU has pressed Poland to introduce visa requirements for Ukraine, Russia and Belarus to try and prevent the criminal networks, drug-smuggling and human trafficking from taking place through Poland (Monar 2001: 45). Thus far Poland has resisted due to its close historical, cultural and economic links to these countries and the sizeable Polish minorities in Ukraine and Belarus (Phuong 2003: 13).

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[16] Under this deal, Poland was required to spend 49 percent of the amount given on upgrading border control in the east (mainly through purchasing new equipment) and 38 percent on reinforcing its policing and apprehension of illegal immigrants. Only 13 percent was earmarked for building asylum institutions and refugee status determination capacity (Lavenex 2002: 711).

[17] This move was criticised by several scholars and NGOs. Without a history of refugee status determination, introducing controversial legal concepts without the necessary safeguards entailed a high risk of refoulement. On the other hand, the generally positive relations Poland enjoys with its neighbours meant that these provisions were hardly ever invoked (Lavenex 2002: 712).

Despite these concerns, however, Poland has accepted and completed a full reform of its border police under EU auspices. Since 2001, the border police has been completely reorganised and reoriented towards the country's non-EU frontiers, crossing points have been reduced in number, the various authorities responsible centralised, and an Integrated Border Management Strategy drawn up (Monar 2001: 43). The Border Guard has been given a range of policing authorities, including access to public databases, operational authority throughout Poland and the power to act as primary immigration officers (Mitsilegas 2002: 674). On the operational side, the Integrated Border Management Strategy aims to modernise fully Poland's border management, particularly control of the 'green borders' to the east. Thus, large investments have been made in mobile surveillance units, radio-controlled surveillance posts, portable thermo-vision cameras, surveillance-equipped helicopters and chemical and radio-metrical control equipment (Adamczyk 2004: 3ff; Monar 2001: 43; Mitsilegas 2002: 674).

The upgrading of border controls in Poland and other accession countries reflects the importance assigned to this issue by the EU. The 'old' countries simply do not believe that these countries are able to control their own borders adequately, thus creating a control vacuum for the whole Union. In addition to the millions of Euros already donated through EU and bilateral channels, an extraordinary 1 billion Euros were recently set aside to help acceding countries reach 'Schengen maturity' (European Parliament 2004: 2). The lack of trust is also evident from the two-tier model that has been adopted, in which the acceding countries are given seven years to implement fully all Schengen standards before their borders with the 'old' EU will be opened (Samers 2004: 18). This extra 'layer' of migration control serves both as an additional level of protection in stemming external migration, and as an attempt to insure the 'old EU' against uncontrolled labour migration from the new Member States.

The 'Limes' of European border control

The Polish case is a clear example of risk-based migration management. The new borders to the east are impossible to control in the classical sense of erecting physical barriers to entry. Rather, one may compare this mode of border management with the ancient Roman 'Limes',[18] the outer frontier of the Roman Empire under constant threat of invasion.[19] This vast frontier was impossible to fortify, which is why the Limes was often represented simply by a stone or ditch constituting a symbolic line of demarcation. Along this line more than a thousand watchtowers were erected, from which dispatches could

[18] I owe this allegory to the Danish historian Uffe Østergaard.

[19] Particularly well known are the 'Upper German-Raetian Limes', which constitute the largest archaeological monument in Europe. Built by the Roman military, this is considered one of the most formidable symbols of Roman construction, large-scale planning and surveillance knowledge (Thiel 2001).

be sent to the strategically placed army barracks when enemies were approaching (Thiel 2001).

Today, these watchtowers have been replaced by high-tech surveillance equipment, yet the operational logic remains the same. The Polish Border Guard has just finalised development of a stationary perimeter surveillance system to be erected at the most inaccessible parts of the eastern border. In addition, surveillance and border control using GPS technology and unmanned surveillance aircrafts running on solar energy are currently being explored (Adamczyk 2004). Like the rest of the EU, the reorganisation of the Polish border guards follows a policing methodology, in which surveillance and mobile technologies are employed to prevent illegal immigrants, not only on the long lines of the border but also inside the country itself. The border is reduced to a symbolic construction at which the migrant crossing clandestinely triggers a response further within EU territory to alleviate the potential risk. What is being patrolled is no longer the border, but migration movement.

The push for increased border control has not, however, been unproblematic. As in the Polish case, several countries are resisting these restrictive measures on either economic or diplomatic grounds. By reinforcing its external borders, the EU is putting a clear line between those who belong and those who do not. Efforts to reassert migration control through strict border regimes inadvertently cause discontent and alienation on the other side (Mitsilegas 2002: 676). In addition to the diplomatic dimension, the application of the Schengen acquis is likely to increase transaction costs substantially for trade across the new EU borders. In some regions of Poland it is estimated that 30-40% of all small and medium-sized companies are dependent on cross-border trade with the Ukraine (Samers 2004: 18). Lastly, moving the external frontiers pushes the cost of conducting migration control and asylum processing on to the new Member States. Several of the latter have raised concerns that new asylum and immigration policies are being instrumentalised in order to turn their countries into a ‘filter or buffer zone’ between the ‘old EU’ and countries of emigration (Phuong 2003: 19; Lavenex 1998: 290).

Yet, despite these protests and concerns, the new EU countries have generally complied with all these new demands. As the ongoing policy development has made the exact requirements appear unclear, the new countries have been forced to hit a ‘moving target’ (Lavenex 2001: 703). To be safe, most countries have opted to introduce more deterrent and restrictive measures, thus giving additional impetus to the control orientation of immigration and asylum policy (Mitsilegas 2002: 677).

The southern frontier: managing the ‘virtual borders’

In October 2003, five southern EU countries met to discuss a French proposal to create a ‘European Security Zone’ to combat illegal immigration in the

Mediterranean (Kornø Rasmussen 2004: 150).[20] As a result, navy vessels and spy planes are today operating in the Mediterranean to monitor and intercept boats heading towards Europe. The project has been described as a pilot for a common European corps of border guards. Although agreement is still not in place for such a measure, the EU is indicating its intention to move from merely coordinating and harmonising legislation in this area into making it a truly supranational issue. The projects implemented so far are illustrative of the explicit control rationale in place, in which, unlike the Polish case, cooperative border management pushes border control outside the territorial frontiers.

'Operation Ulysses', the formal name of the above programme, was conceived as part of the EU's Border Control Programme following the Seville summit in 2002, at which 'illegal immigration' and 'trafficking' topped the overall agenda (European Council 2002c: 7; EurActiv 2002).[21] The proposal was pushed forward following a series of incidents profiled in the media, in which boats were arriving on the Italian and Spanish coasts containing hundreds of would-be immigrants and asylum-seekers (Daly 2003). In response, navy vessels and aircrafts were deployed to create what the Spanish Minister of the Interior Angel Acebes called a double 'filter', the first guarding the coastal zones of Spain, Italy and Gibraltar, the second extending into international waters around the North African states and the exposed Canary Islands (Kjær 2004: 40; Daly 2003).[22]

In a similar vein, the EU has participated in NATO deployments to the Mediterranean in order to prevent or reduce the risk of terrorism stemming from uncontrolled migration. Recent security assessments indicate that North African countries are the most likely point of departure for potential terrorists coming to the EU or targeting EU maritime vessels (Richardson 2004: 7ff).[23] Shortly after September 2001, NATO initiated Operation Active Endeavour Airborne Warning and Control Systems (AWACS) to monitor and inspect vessels bound for Europe. Using military sea and air vessels, more than 36,000 commercial ships have been inspected as of October 2003 (Richardson 2004: 12).

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[20] The countries were Italy, France, Spain, Portugal and the United Kingdom (Gibraltar).

[21] The conclusions followed the 'European Council comprehensive plan on illegal immigration and trafficking in human beings' adopted earlier that year (European Council 2002b).

[22] The 'Ulysses' operation bears a striking resemblance to Australia's 'Operation RELEX', which was instituted after the Tampa incident in 2001. This large-scale operation involves a naval blockade and the deployment of spy planes in the Indian Ocean (Fekete 2003b).

[23] The issue gained increased attention after the detention of three Saudis with alleged ties to Al-Qaeda, attempting to purchase speed boats in Morocco (Richardson 2004: 17). Further, AEGIS, a British Security Company specialised in the 'identification, mitigation and management of risk' recently published a report on the maritime terrorist threat (www.aegisdef.com).

Along with the Ulysses programme, AWACS and other NATO border control programmes[24] typify the increasing militarisation of operational border control initiatives. Like the upgrading of border controls in the new Member States, the military and gendarmerie are becoming heavily involved in border policing. This is not because migration is considered a military threat in itself, but rather because the risks posed by migration are becoming more difficult to control (Rudolph 2004: 31). Consequently, military equipment and technology are used by border guards to monitor migration flows and force unwanted immigration back into international waters. In agreement with Bigo, we see how risk-oriented practices entail a subsequent securitisation, as mechanisms of migration management are increasingly becoming militarised.

Even more characteristically, the initiatives in the Mediterranean are some of the clearest examples of the current EU aim to extend border control beyond its territorial borders. As one Council study concludes:

> 'Control of the physical border should be reinforced at a 'virtual border' upstream, by bringing control and prevention actions forward in the arc between countries of transit or departure, principally those on the eastern and southern coasts of the Mediterranean'. (European Council 2003b: 4)

This 'virtual border' created by interdiction policies becomes a pre-frontier control perimeter, at which immigrants who are considered a potential risk can be stopped before they set foot on EU soil. Like the early institutionalisations of visa policies and carrier sanctions treated in the previous chapter, the 'virtual border' becomes a vehicle for conducting 'control at a distance', thus countering the risk of migration with preventive measures to deter and (physically) prevent arrivals (Bigo 2004: 24). The result is a reconceptualisation of borders as spatial as opposed to linear. As suggested by some scholars, we should rather speak of border 'zones' or 'fuzzy borders' in which the migration risk filter is established as an intermediary space between the inside and the outside of the Union (Christiansen et al. 2000).

This way of extending sovereignty beyond actual borders does, however, fundamentally challenge core parts of the refugee protection regime, and the obvious control objective may create dissent among public constituencies. Despite the explicit humanitarian aim of the Ulysses programme to prevent immigrants from drowning in the Mediterranean (European Council 2003b: 2), public concerns have been raised, especially after two incidents in 2003 in which 21 people drowned after their boats were refused access to the Canary Islands by Ulysses vessels (Fekete 2003b). Secondly, the unsettled legal base

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[24] During the summer of 2004, NATO, the EU and a number of southern Balkan states held a large-scale exercise involving more than 700 police, military and civilian personnel. The exercise simulated situations of trafficking interception, smuggling incidents and the 'reinforcement of borders with troops' (USINFO 2004).

surrounding interdiction policies that is the very premise for carrying out effective deflection policies in itself implies an increased risk of *de facto* refoulement or human rights violations,[25] as access to status determination procedures are made dependent on access to EU territory.

Analysing the risk of migration: predicting risky flows

A second set of operational initiatives in the area of border control concerns innovations in the analytical approaches to managing essentially uncontrollable migration flows. Following the 2002 Plan for the Management of External Borders adopted in Seville, a number of specialised ad hoc centres on border management have been established (European Council 2002b). Through training exercises, movement pattern analysis and research, these centres serve the dual purpose of promoting cooperation and acting as a mutual reassurance that there are no weak links pertaining to the reinforcement of external borders. However, the centres also illustrate how border control is moving into a management mode in which specific areas, groups or issues are identified as particularly risky and targeted for increased control.

So far, the EU has set up five ad hoc centres to deal with the perceived areas of risk, which are set to be incorporated into the newly established Frontex Border Agency in Poland. The ad hoc institutions include two operational centres on maritime border control to oversee and coordinate control initiatives like those mentioned above. Secondly, a Centre on Land Borders has been established with the aim of coordinating joint control operations and further expand information sharing through cooperation with other agencies such as Europol. Thirdly, the EU Air Borders Centre is to be located at Rome's Fiumicino Airport to develop an International Airports Plan to improve airport security and control. Fourthly, the EU is in the process of establishing a Training Centre for the European Border Guard, including the development of a common curriculum. Lastly, to tie these institutions together, the EU Risk Analysis Centre has been charged with developing resources for gathering, analysing and disseminating the information and data obtained from other bodies, including the centres mentioned above (ibid.).

Set to become the heart of the EU's common border management strategies, the working methods of the Risk Analysis Centre are particularly interesting. First of all, the Centre has been given the task of performing geographical risk assessments, identifying areas of particular vulnerability and recommending and coordinating action. Areas already identified with a particular risk of uncontrolled migration include the Italian and Spanish coastlines (particularly

[25] For example, a risk of violating Art 3 of the Convention Against Torture, in which it is stated that: 'No State Party shall expel, return (*refouler*) or extradite a person to another State if there are substantial grounds for believing that he would be in danger of being subjected to torture.'

the risk from North African countries and vulnerable EU ports of entry such as the Canary islands, Cueta and Mellila), Austria's borders with Hungary, Slovakia and the Czech Republic (although enlargement has made these borders internal, they are still considered a major risk of uncontrolled immigration) and the Aegean Sea (with a particular view to controlling Kurds, Iraqis, Iranians, Pakistanis and people from 'other Asian countries') (Hayes 2003: 6f). On the basis of these assessments, operational initiatives, such as the Ulysses programme, may be introduced to focus border control on the areas most at risk.

However, the Risk Analysis Centre has also carried out risk assessments that give a priority to particular issues and specific groups. It recently launched a 'visa under false pretences' initiative in cooperation with Europol to crack down on illegitimate visa applications and use. Further, specific categories of people have been given a higher priority in migration risk management. The 'Illegal immigration from China' initiative is a prime example of profiling being used as a core tool in designating and prioritising various risk groups (Hayes 2003: 7). Profiling is used to predict a person's likely behaviour by extrapolating existing data on to a larger set of categories based on past experience (Adey 2004: 505). In this sense, profiling perfectly illustrates Beck's 'presence of the future'; using past experience, idealised characteristics of a future risk (e.g. a terrorist) are projected on to present subjects and present action described accordingly (Beck 1992: 34). In the case above, a simple category, nationality, is used to 'flag' travellers from China for further surveillance or perhaps personal interviews or questioning (Adey 2004: 506).

Taken together, the strategic foci flowing from the EU's Risk Analysis Centre and the operational initiatives following them indicate the arrival of a fundamentally different way of approaching migration control. First of all, it clearly signifies the realisation that states now have only limited means (despite increasing budgets) to solve an almost unlimited task. Consequently, border control has moved towards a management strategy, in which particular risks are analysed and weighed against each other. Since the EU cannot afford to step up control everywhere, efforts are focused on the perceived 'weakest links'. Secondly, as increased border control entails a risk of obstructing trade or tourist flows or violating human rights, profiling is employed to identify those categories that pose the highest risk relative to the potential costs of focusing control on them. The whole process requires a proactive mode of thinking, in which any action aimed at reducing the risk of uncontrolled migration, in itself or through the neglect of other risks, spawns new concerns (Coker 2002: 46). The dilemma was eloquently captured by the Greek Foreign Minister, who argued during the Greek presidency argued that:

> 'we not only need secure borders, we need *smart borders*. Borders that welcome the economic migrants that our societies need, as well as the

> refugees that our legal obligations and humanitarian instincts oblige us to care for.' (Papandreou 2003, original emphasis)[26]

3.3 Remote control: the Schengen visa and carrier sanctions

Visa policies are an old horse in immigration policy. Since Amsterdam, the Schengen visa system is now part of the EU *acquis*. Yet, as a prime example of how migration control is moved outside the physical borders, it may be worth considering the logic underpinning the current EU visa regime and the way it works together with carrier sanctions. Using a term originally coined by Aristide Zolberg, visas and carrier sanctions can be said to manage migration by 'remote control', complementing the 'risk filter' inside and at the borders with initiatives to influence migration flows at the source of destination or along the route (Zolberg 1999).

The EU visa system

The first common EU visa list was established as part of the 1993 Dublin Convention, which imposed visa requirements on travellers from 73 out of 183 non-EU countries. This number was increased to 110 at the later JHA Council in 1995, which also set out particular airport transit visas for nationals of countries with particularly high asylum rates (Lahav 2003: 101).[27] More recently, a 2001 Council Regulation institutionalised two lists, which have come to be known as the 'black list' and the 'white list', distinguishing between those nationals who require a visa for entry and those who are specifically exempt from such requirements (European Council 2001). At present, the black list embraces 101 countries,[28] including all of Africa, most of Central, South and Southeast Asia and large parts of Central America.

The dual visa list apparently exemplifies a division of the world into two overall risk groups. On a country basis, the EU performs an analysis not just of nationals who constitute a high risk, but also of nationals of low risk, regarding whom additional control measures can be waived. For the countries on the black list (basically all developing countries and countries with high levels of asylum-seekers or labour migrants), entry becomes the exception, and only a

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[26] The same expression was used when the US and Canada issued the 'Smart Border Declaration' on 12 December 2001, thereby stepping up border cooperation following the terrorist attacks in the US earlier that year (Rudolph 2004: 19). Since, the US-Canadian cooperation has instituted the NEXUS programme enlisting a number of border agencies, immigration officers and intelligence agencies in the effort to facilitate the flow of 'low risk' travellers while keeping border security (ibid.).

[27] At the time these included Afghanistan, Ethiopia, Eritrea, Ghana, Iraq, Iran, Nigeria, Somalia, Sri Lanka and Zaire.

[28] The relatively lower number is to a large extent the result of visa requirements for potential EU candidate countries in eastern Europe, such as Bulgaria and Romania, recently being lifted.

further control measure – a visa obtained through a consulate – can revoke the initial risk analysis on an individual basis. As several scholars have argued, visa systems effectively move the border control to the country of departure (Bigo and Guild 2004: 29; Guiraudon 2003b: 3). Migration control is carried out first on the basis of a country risk analysis and secondly by consulate officers, who act to counter the adverse effects on 'wanted' migration from countries on the black list. The idea of having two lists points to the management logic involved. Like the surveillance regime described in the previous chapter, control is not evenly distributed, but intensified for 'high-risk' countries and relaxed for 'low-risk' countries.

Secondly, visa regimes quite obviously act as risk prevention. Through them, more than half the world has been denied regular access to EU territory. Yet, as some commentators have been keen to argue, this attempt to assert control may to some extent prove problematic and even lead to a loss of control. The 'steady flow of press reports and questions in Member States' parliaments about prominent or rich persons who come to be refused admission' at the frontiers or not afforded a visa is a good indicator that a country by country system may indeed provide a picture of 'black and white' (Guild 2004: 35). Secondly, the attempt to improve control by imposing visa requirements for the nationals of more than a hundred countries reinforces the construction of all nationals of these countries as potential 'illegal migrants' posing a higher risk. This risk becomes a reality when those not afforded a visa are subsequently forced to migrate clandestinely by resorting to human smugglers or traffickers.

Carrier sanctions

The visa system has been coupled with another original Schengen initiative that has taken on an increasing role in recent years – carrier sanctions. 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 (Guild 2004: 36).

Article 26(1)(a) and (b) of the Schengen Implementation Agreement reads:

> (a) 'If aliens are refused entry into the territory of one of the Contracting Parties, the carrier which brought them to the external border by air, sea

> or land shall be obliged immediately to assume responsibility for them again….'
>
> (b) 'The carrier shall be obliged to take all the necessary measures to ensure that an alien carried by air or sea is in possession of the travel documents required….'

In delegating this control function, states are exploiting the economic logic underpinning private companies. The following paragraph allows for Schengen countries to impose penalties if the obligations are disrespected. A 2001 directive on carriers' sanctions made it a duty of Schengen countries to fine carriers in the order of 3000 to 5000 Euros for each rejected alien (Guild 2004: 36). In the UK, which has had rules on carrier sanctions since the original Ad Hoc Group proposal in 1987, more than £120 million have been levied from international carriers in this way (Guiraudon 2003b: 8) In addition, carriers are made responsible for detaining and transporting back rejected aliens, which itself may represent no small cost. The underlying logic of carrier sanction policies is thus essentially preventive: the cost of fines, detention and readmission are likely to outweigh the costs of refusing to board passengers, thus inducing transportation companies to adopt the logic, 'if in doubt, leave them out'.

Subsequent to states' use of the 'stick', a 'carrot' is often presented. Carriers may be exempted from fines if they agree to participate in additional pre-frontier checks on flights or destinations presenting a particular 'migration risk' (Guiraudon 2003b: 9). In doing this, EU states are issuing guidelines and sending immigration officers to ensure that control is carried out satisfactorily (Guild 2004: 41). Joint training sessions between airline security staff and EU border officials have been conducted since 1996 and airline security staff in most major companies today are recruited directly from national police agencies, intelligence services and border guards (Guiraudon 2003b: 9).[29]

The economic logic underpinning private companies ensures that the EU and the Schengen states retain and even expand migration control, despite the delegation of control functions to third actors. The *distance* created between agents of control and formal policy-makers is exactly what facilitates control. The case of carrier sanctions is illustrative of the fact that remote control can be a way of achieving migration control without the usual impediments normally connected with restrictive migration measures. From an EU perspective, the

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[29] As examples, Virginie Guiraudon mentions the Air France director of security, currently on leave from the French border police, the security chief of KLM, a former member of the Dutch anti-terrorism police, the British-French Eurotunnel company, which hired a former British general to improve migration control, and the German Lufthansa, which is relying on a private security company (AVS) known for recruiting former German border guards (Guiraudon 2003b: 9).

use of carrier sanctions implies a potential looping of national and international commitments. Private carriers are not under the same juridical constraints as state entities. Although carriers clearly do not have the power to imprison individuals against their will, several airline companies have actually established transit zones to detain suspected passengers in countries that allow this (Guiraudon 2003b: 8).[30] The most notorious case is 'Sheremetyevo 2' in Moscow airport, which holds both asylum-seekers and other migrants denied onward travel towards Europe for fear by airlines of fines being imposed (Nicholson 1997: 598f). These people are placed in a legal void, as they are neither formally on state territory, nor the subject of government decisions or procedures (Guiraudon 2003b: 8). Through this privatisation and deterritorialisation, procedural safeguards and international human rights instruments that normally restrict or delay the implementation of restrictive immigration measures are effectively by-passed.

Secondly, the heavy burdens placed on carriers induce these companies to implement risk management strategies similar to official EU mechanisms of border control. As one security officer pointed out, transport companies adopt 'focused security strategies' rather than 'blanket approaches', as even a small increment in the security procedures per passenger would lead to several hours longer processing time for each departure (Guiraudon 2003b: 10). As was seen above, this is at the heart of risk-oriented action; security personnel are trained in 'profiling' techniques, identifying particular 'risks' on the basis of country of origin, particular behaviour or appearance, who are then singled out for additional control (Guild 2004: 37-38).

The effectiveness of carrier sanctions in smoothly implementing these restrictive measures depends again on the predominantly economic logic of private companies. According to Article 26.2 of the Schengen Implementation Agreement, signatory states are bound by the 1951 Refugee Convention when imposing carrier penalties. However, this rests on an assumption that suspected inadmissible passengers might actually be seeking asylum. Carriers are not bound by any such obligation, and it seems to be more cost-effective to reject passengers with insufficient documentation than to run the risk of being fined. Transport companies are generally not very keen to disclose information as to the numbers who are rejected or sent back. Yet, the available figures indicate that carrier sanctions have become a quite effective means of preventing undocumented migration into the EU. KLM refuses approximately 4000 passengers a year, British Airways released figures in 1995 of 5568 persons, and Air France is reported to reject nearly a 1000 passengers a month (Guiraudon 2003b: 7; Nicholson 1997: 598).

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[30] In France, the legal possibility of such provisions was envisaged as early as 1945 (Guiraudon 2003b: 9).

However, the apparent effectiveness of these control measures may themselves spawn a simultaneous loss of control. Like visa regulations, carriers aid in the criminalisation of certain categories of migrants as 'illegal'. Even asylum-seekers, who under the Geneva Convention are explicitly exempted from liability for otherwise illegal entry, are apparently prevented from exercising their rights to seek asylum.[31] Thus constructed as 'illegal immigrants', asylum-seekers are then left either to acquire forged documents or to seek the help of human smugglers to enter, ironically prompting Member States to call for increased carrier sanctions to enhance control (Guiraudon 2003b: 7). The efforts to control migration by categorising it as 'illegal' seem to reinforce the risk of uncontrolled migration, both real and perceived. In this sense, such policies come to constitute a reflexive problem for the EU, generating both higher numbers of 'illegal immigrants' and a loss of control over their movement.

Outsourcing migration management

Both carrier sanctions and the current visa regime are examples of migration management by 'remote control'. 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. The logic by which these policies work is very similar to current trends in border management and surveillance as dealt with above. Given the impossibility and undesirability of complete control, policies are implemented on the basis of a multilayered risk analysis. Like Bigo's 'banoptic' system, discussed in the previous chapter, 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).

In effect, the visa system and carrier sanctions come to form another layer in what Bigo calls the 'security continuum' and the present article is calling the 'risk filter' (Bigo 1998). In doing so, they are even overcoming some of the legal constraints of restrictive migration policies, as migration control is simultaneously *privatised* and *deterritorialised*. To some extent, they are succeeding in creating a legal vacuum, in which the constitutional or international hindrances to control are effectively eclipsed. Similarly, the humanitarian and political obstacles to control policies are avoided in part. As Samers argues, this 're-scaling, of control to third countries is a way to shift the less palatable (and less easy legitimated) dimensions of border and visa control onto third countries where legitimacy may be less of an issue' (Samers 2004: 20).

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[31] During the past decade, UNHCR, ECRE, the Council of Europe and the European Parliament have all spoken out against the tendency of carrier sanctions to prevent asylum-seekers from exercising their rights (Guiraudon 2003b: 6)

This 'outsourcing of migration management' is increasingly evident in other spheres of the growing EU migration regime (Gammeltoft-Hansen 2006). Since Tampere, the EU has stressed partnerships with third countries, and migration priorities are increasingly tied to the traditional domains of foreign policy. As is evident from the Commission's recent "Strategy for the External Dimension of JHA" (European Council 2005), preventive strategies for migration management gains a whole new dimension outside EU borders. In this sense, the risk ethos is replicated in a number of policies attempting to prevent migrants and asylum seekers from entering the EU or even leaving in the first place. This externalisation process gains further momentum as EU Member State is trying to deflect the risks of migration control to third states. As a number of studies have pointed out, however, such externalisation may indeed entail reflexive problems of their own (Gammeltoft-Hansen 2005: 69ff; Niessen 2004; Lavenex 2004; Guiraudon 2003b; Kruse 2003).

4. Conclusions

Looking at recent developments in the area of migration control, the pace and scope of developing EU policy is striking. Developments in migration surveillance and border control in the EU give credence to the conclusion that migration, and even more broadly *mobility*, are increasingly viewed as risks to the concepts of 'safe and static containers of space, territory and order' within the Union (Adey 2004: 502). Consequently, border control is moving away from being a traditional reactive or defensive instrument towards being a more proactive, anticipatory system, in which the main purpose is no longer to control borders, but to manage the flows of people crossing them. To this end new technologies are being deployed and control functions thereby increasingly dislocated from the border itself.

From border control to migration flow management

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. But most fundamentally, the communitarisation of migration control has entailed a new premise for migration policy. The then Justice and Home Affairs Commissioner, Antonio Vittorino, captured this point eloquently when at the Tampere summit he declared:

> 'Migration is a fact that one can manage and influence with the right instruments, but not prevent as such.'[32]

[32] Cited in ICMC (2001: 5).

This realisation is increasingly reflected in the migration control mechanisms developed at the common EU borders. As was seen in the case of the new eastern frontiers, it is impossible to patrol the vast borders of the enlarged Union. Rather, border agencies rely on electronic surveillance systems such as motion sensors, remote-controlled aerial vehicles and watchtowers with thermal cameras. On the basis of this information, subsequent risk assessments are performed that may or may not trigger a control response from mobile units behind the lines.

The result is not a *Fortress Europe*, as many commentators would like to believe. Rather, using the Spanish metaphor above, it could be conceptualised as a *risk filter*. In this sense, European borders are permeable, but they act as a series of risk filters sorting the *mala fide* from the *bona fide* migrant. A continuum is created between surveillance techniques, risk analysis centres and operational initiatives that serve to identify and monitor various risk groups and target additional migration control at the weakest points or most risky migrants. Hence, the task is no longer to control the borders, but to manage the flows of migrants across them. 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.

The reflexive dilemmas of migration control

Despite the new possibilities of the above policies for managing migration, none of these initiatives are without their drawbacks or hidden costs. Just as control policies have been enacted to counter the risk of migration, the above analysis has pointed out the reflexive dimension ascribed to migration policy whereby new risks arise from enacted policies. Thus, in installing control measures, policy-makers are equally forced to consider the risk of migration control itself.

As with any area of regulation, migration control entails a number of dilemmas vis-à-vis other policy priorities. First of all, some control measures challenge refugee protection and human rights standards. Enlisting private parties, such as carrier companies, exploits a dubious legal base to assert new degrees and levels of migration control. Yet exactly because of this, these policies are bringing about an increased risk of *refoulement* as individual status determination is eclipsed by the imperative to prevent asylum-seekers from entering the EU. Similarly, despite the attempts to establish 'smart borders', migration control is still likely to encumber 'wanted flows'. Implementing Schengen at the new eastern borders has become an impediment to cross-border trade, and the reflexive problem of proactively defining risk categories is illustrated by the recurrent incidents of rich or otherwise prominent persons being denied visas or entry at the borders. Lastly, the institution of visa

requirements and policies to shift the burden of asylum processing to third countries contains the risk of alienating these countries diplomatically. With limited capacity to handle this burden and growing concerns over migration in these countries, policies deflecting the responsibility of migration control to third countries even risk creating political instability.
More fundamentally, the continued disagreements among Member States over restrictive migration policies point to the intrinsic political dilemmas of migration control. As has already been argued, migration policy becomes a test of the liberal and humanitarian values that are generally endorsed by western democracies. Thus, in pushing for restrictive migration policies, the EU is stretching the normative fibre upon which it is seeking to build a common European identity (Huysmans 2000b: 165). Ultimately, the imperative for migration control is irreconcilable with liberal standards promoting free movement and humanitarian principles. Acting on the risk of migration entails a risk of nationalistic or xenophobic movements using the image of uncontrollable migration as a rallying cause for visions of Europe that are incompatible with the current integration project.

The helix of control and loss of control

The second dimension of reflexivity is more intimately connected to the aim of *control*. Some commentators have questioned the efficiency of new control measures, as they apparently never succeed but always call out for additional efforts. The analysis above has pointed to the simultaneous *loss of control* that may follow policies designed to achieve the opposite. The agency of migrants in adapting to new control mechanisms is often overlooked in the policy process. The imposition of visa and immigration requirements in itself creates new categories of 'illegal migrants', while the implementation of carrier screenings and immigration registration systems dispose migrants to resort to human smugglers or other means of clandestine entry, making it even more difficult to recognise and detain risky individuals.

Control policies thereby risk becoming a self-sustaining dynamic, in which new control policies are constantly being implemented in response to the loss of control entailed by previous ones. This is what Beck calls the 'risk trap' (Beck 1999: 141). A prominent example of this dynamic is the so-called 'securitisation of migration' discussed above. On the one hand, the fight against illegal immigration has entailed a militarisation of migration control, which is now linked to security issues such as terrorism. On the other hand, this projection of particular security threats into migration at large entails an increased sense of risk and insecurity with regard to immigration in general requiring new control measures. What becomes evident is that this 'securitisation' is not a response to a threatening 'other', but an effect of the way that migration control policies reproduce themselves. At the heart of this dynamic is not a generic categorisation of migration as a security issue, but a

never-ending pursuit to manage the risks arising from the control policies themselves.

An emerging migration management regime?

In light of the risk-based control policies described above, one could ask whether a new migration management regime is developing. The legal regime of the past half century is evidently under considerable pressure from the current imperative to assert migration control. Yet, unlike those who are looking solely for the 'securitisation of migration', this article has identified the continued presence and influence of liberal and rights-based considerations. The importance of human rights and refugee protection stands out precisely as risks of enacting restrictive control policies. If a new regime is emerging, it is not negating the old one, but rather redefining the political priorities.

The continued political debates over migration policy make it evident how the risk of migration is constantly being contested by those emphasizing the risks of migration control. Yet, as migration issues are recast in the language of risk, it becomes clear that neither is able to provide solutions to the problems of migration, but only to attempt to manage or regulate parts of the flows. This is the key to the political significance. In the European context, migration policy attains its continued importance not just because migrants continue to arrive on our doorstep, but because no risk-free solutions present themselves to this phenomenon. The continued disparity between liberal and restrictive policies in discourse and practice reflects an interplay between various risk considerations arising from migration policy itself.

Thus, in the migration management regime, policies seeking to prevent migration are likely to co-exist with efforts to keep open the asylum channel, resettlement quotas and labour migration schemes. They all serve the overarching purpose of regulating migration flows. What can be identified, however, is a cultural change in the attempt to achieve an *orderliness* that stresses the need to manage the risk of migration. As this article has sought to elucidate, however, the feasibility and desirability of present attempts to achieve this ambition may be questioned. Rather, policies to control migration seem to have taken on a life of their own, in which the risk of migration is constructed in the process.

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