

# Securitization and Risk at the EU Border: The Origins of FRONTEX\*

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## Abstract

Documenting the origins, remit and practices of the European external borders agency FRONTEX, this article argues that FRONTEX is not the product of ‘securitizing’ links between terrorism, security, migration and borders made by EU institutions in response to 9/11, but rather of their failure. In so doing, the article critiques securization theory in comparison to the alternative modality of risk.

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## Introduction

On 26 October 2004 the Council of the European Union established FRONTEX (from *frontières extérieures*), a new external borders agency for the EU (Council of the European Union, 2004). Its stated purpose is: ‘Co-ordination of intelligence driven operational co-operation at EU level to strengthen security at the external borders’.<sup>1</sup> Is FRONTEX the product of a securitization of migration in the EU after 9/11? This article uses FRONTEX

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<sup>1</sup> FRONTEX ‘Mission Statement’. Available at: <[http://www.FRONTEX.europa.eu/more\\_about\\_FRONTEX/](http://www.FRONTEX.europa.eu/more_about_FRONTEX/)>.

as a case study for investigating the development of EU security discourses, practices and policies, specifically to explore whether migration from outside the EU has been represented and constructed as a security threat. If so, is this a change of direction or a continuation of existing trends? Did 11 September 2001, and the subsequent bombings in Madrid and London, radically change the EU approach to migration and security? And does FRONTEX represent the institutionalization of this changed approach?

Christina Boswell notes that 'the received wisdom is that 9/11 provided an opportunity for the securitization of migration' (Boswell, 2007, p. 589). This article challenges that view, arguing that although the responses to 9/11 issued by the key EU institutions made clear 'securitizing' links between terrorism, security, migration and borders, FRONTEX was not the outcome of that securitization, but rather of its failure. The creation of FRONTEX was not the urgent and exceptional policy that the logic of securitization theory would expect. Moreover, despite the apparent post-9/11 securitization of migration in the EU, the documents, political processes and rationales relating to the construction and remit of FRONTEX do not use overt securitizing language and do not follow the classic logic of securitization. Rather, the predominant conceptual language in the rationale, documentation and practices of FRONTEX is that of risk.

In four broad sections, the article presents empirical evidence, mainly documentary and discursive, about the origins of the new external borders agency with a specific focus on the policy statements and initiatives of the EU institutions in response to 9/11. Throughout, it also explores theoretical questions about securitization theory and the appropriateness and applicability of that approach to the EU in its structural uniqueness, highlighting problems in the assumed link between 'securitizing moves' and 'securitized outcomes'.

Section I introduces the conceptual context, discussing the many problems that the institutional and political arrangements of the EU pose for securitization theory. Section II offers empirical detail on the responses of the main EU institutions to 9/11, arguing that these amounted to 'securitizing moves'. By mapping the debates and policy responses that followed over the subsequent years, the article then shows that the 'securitizing' urgency of late 2001 was not successfully translated into a policy response that lived up to the initial hubris. In effect, the discursive securitization of migration failed, producing neither urgent policy responses nor Member State solidarity in the face of what was articulated as a common threat. The key argument is that FRONTEX is an outcome of this failure of securitization. Section III discusses the remit and operation of FRONTEX in relation to securitization and risk, assessing whether the agency represents a 'securitized' outcome or a 'tool' of securitization, and if FRONTEX is itself a 'securitizing' agent. It also

explores how a modality of risk works through a number of the institutional and regulatory practices of FRONTEX, some of which support the logic of securitization and some of which contradict it. The concluding section advocates Didier Bigo's idea of a 'governmentality of unease' as an alternative and more appropriate approach to that of securitization theory.

## I. Securitization Theory and the EU Context

These questions about FRONTEX, migration and security occur in the context of an ongoing debate about liberty and security since 9/11. The reactions of liberal democratic governments to 9/11 have raised questions about emergency powers, exceptional events, situations and responses, and whether constitutional checks and balances, international obligations and fundamental freedoms and rights need to be reconsidered or redefined according to the 'necessities' of security (Agamben, 2005; Amnesty International, 2002; Chang, 2002; Goldberg *et al.*, 2002; Prozorov, 2005; Scheuerman, 2006; Schulhofer, 2002; for empirical detail of political debates see Diez, 2006; Huysmans and Buonfino, 2006; Tsoukala, 2004). Securitization theory offers many resources for approaching the issues raised by the liberty/security debate, and is a commonly used way to understand how 'security' is invoked to legitimize contentious legislation, policies or practices that would otherwise not have been deemed legitimate. The approach describes a process whereby urgent 'security issues' or 'threats' are identified or 'constructed' in order to mobilize opinion and constitute legitimacy and authority for the means of dealing with that 'threat' (Wæver, 1995).

In more detail, securitization theory considers the ways in which areas of political life can be shaped by the framing of political debate in terms of existential threat and survival (Huysmans, 2006). This can be done in many different forms and by many different actors, but the capacity of the actor to securitize an issue effectively is an important consideration, as the actor needs sufficient institutional and political authority for their statements to contribute to the shaping of political and social relations. As such, securitization is not reducible to speech acts alone, as one must also consider the conditions under which they occur and how these contribute to their form and their success or failure. Ole Wæver argues that these conditions include the use of the 'grammar of security', the 'social capital' of the securitizing speaker and objects on the ground that may be cited as supporting evidence of a threat, such as 'tanks, hostile sentiments, or polluted waters' (Wæver, 2000, pp. 252–3). Nevertheless, although it is argued that securitization depends upon certain material conditions of possibility, 'security' is ultimately a matter of

shared agreement or attitudes. As Wæver writes: 'Securitization is ultimately constituted in the inter-subjective realm' (Wæver, 2000, p. 252). In other words, securitization theory assumes some kind of relationship between the speaker and an intersubjective 'audience' under certain enunciative and structural conditions.

The approach has spawned a cottage industry of incisive critiques, which include questions about the 'audience' of such discursive moves (Balzacq, 2005; Higashino, 2004), the securitizing authority and capacity of the speakers (Williams, 2003), whether securitizing moves can take silent or non-verbal forms (Hansen, 2000), what conditions must be in place for securitizing moves to succeed or fail (Green Cowles *et al.*, 2001), the difference between securitization and politicization (Huysmans, 1995) and the ethico-political assumptions and implications of the approach (Aradau, 2004).

Analysis of the development of security policy in the EU specifically raises issues along these lines. Securitizing moves in the EU institutions cannot be considered in exactly the same way as securitizing moves in national political contexts where statements are widely reported and analysed in the media and provoke extensive public debate. Although the statements and discourses of the EU institutions may be identifiable as securitizing moves, the relationship between that discourse and the reception, discussion, legitimation and actualization of policy proposals and changes is less clear.

Because of the focus on discourse and audience, the statements of national political leaders and government ministers are an obvious focus of securitization studies. These are widely reported and discussed in national media and are presumed to bear a strong relationship to policy outcomes. In comparison, the communications and statements of the institutions of the European Union look rather different. They are not widely reported and they are often little debated beyond a very narrow specialist audience. Although they play a key role in EU legislation and policy-making, the minimal public dimension challenges some of the assumptions of securitization theory. The link between the securitizing moves of the European Union institutions and the inter-subjectivity of the European public is much more uncertain than securitization in a national context.

One reason for this is that it is difficult to identify the key securitizing speakers in the complex institutional field of EU politics. Another is that the EU context differs from national contexts because its polity is fragmented. Despite the integration project, 'Europe' is not a single polity and cannot be treated as one. As Wæver argues, any sense of 'European' political identity is still to a large extent interpreted differently through different national contexts (Wæver, 2000). For example, the Nordic states have not had the same

experience of mass maritime migration as the Mediterranean EU Member States and this may result in different understandings of 'threat', 'insecurity' or the need for a policy response.<sup>2</sup> Representations and perceptions of these issues may vary hugely according to the varying historical and social experiences of the different national 'audiences' involved.

Nevertheless, there is no methodological prescription which says the 'audience' of security discourses must be 'public', and in the EU context the 'audience' may well be made up of bureaucrats, experts and political professionals. This poses its own problems. Although it is also problematic to assume there is a unified 'public sphere' in 'national' discursive contexts, which may also be pluralized, fragmented and difficult to reliably interpret, at least in that context we are saturated with media from which to reconstruct public debates or discourses. In comparison, it is much more difficult to locate, identify and analyse a 'European' or 'EU' security discourse in a meaningful analytic sense. How can the 'audience' of the securitizing discourses of EU institutions be identified, and what role do they play in the legitimization of policy changes?

The institutional structure of the EU has a particular bearing on questions of securitization. The complex technocratic nature of political, legal and institutional processes in the EU means that policy outcomes may not resemble 'securitizations' along the lines assumed by securitization theory. Consider the following explanation of securitization from Wæver:

Security is the speech act where a securitizing actor designates a threat to a specified referent object and declares an existential threat implying a right to use extraordinary means to fence it off. The issue is securitized – becomes a security issue, a part of what is 'security' – if the relevant audience accepts this claim and thus grants to the actor a right to violate rules that otherwise would bind. (Wæver, 2000, p. 251)

In addition to problems about 'audience', a key question here is whether any of the EU institutions have the constitutional, institutional, political or legal capacity to 'use extraordinary means' or 'violate rules that otherwise would bind'. In the language of Carl Schmitt (from whom these notions of 'exceptionalism' derive), do any of the EU institutions have the capacity to 'decide on the exception' (Schmitt, 1985, p. 5)? Considering that a major function of the EU is to bind its Member States to a common set of laws, rules and procedures which are ultimately upheld by the EU courts, it seems unlikely that it would be desirable, instrumental or feasible for the EU to operate in this way.

<sup>2</sup> I owe this insight to William Vlcek.

The EU is a problematic case as far as securitization theory is concerned. Do EU institutions have the capacity to mobilize intersubjective fears and insecurities? Can they, through securitizing moves, produce and shape legitimacy for policies that would otherwise be contentious? This also raises problems within securitization theory more generally. It is by no means clear what becomes of securitizing moves after their initial discursive assertion or contestation, even if they are intersubjectively accepted or 'successful'. Do they result in emergency rule, exceptional politics, politicization or institution-building? How are securitizing moves institutionalized, and what continuing effect do they have on the policy-making process?

These critical reflections put an interesting slant on questions about FRONTEX. Even if securitizing moves can be identified in the broadly conceived discourses of the EU institutions relating to security, terrorism, borders and migration, what does this mean for the interpretation of FRONTEX as a policy outcome? Can it be said that a European borders agency would not have been deemed legitimate, or have come about at all, without securitizing moves after 9/11? What inter-agency dynamics were involved in its constitution? And does FRONTEX represent the 'securitization' of migration and borders?

## II. The Origins of Frontex

With these questions and methodological concerns in mind, this section, in three chronologically ordered parts, will discuss the political processes which led to the creation of FRONTEX. The subsequent section will discuss the remit, operational practices and discourses of FRONTEX as they currently stand.

### *EU Responses to 9/11: Securitizing Moves*

The responses to 9/11 issued by the key EU institutions made clear links between terrorism, security, migration and borders, and as such they amount to securitizing moves. In the remaining months of 2001 following 9/11, there were three key examples of these.

On 20 September 2001, the Justice and Home Affairs (JHA) Council of the EU held an Extraordinary Meeting which called for 'the Commission to examine urgently the relationship between safeguarding internal security and complying with international protection obligations and instruments' (Council of the European Union, 2001a; Levy, 2005, p. 35). This first response brought migration and the right of asylum into question and linked them both with security, constructing a tension between the demands of

security on the one hand and rule compliance on the other. It demonstrates an assumption that the human rights and asylum regime is being abused or taken advantage of by actual or potential terrorists, and is an immediate externalization of threat which is by implication foreign.

This post-9/11 statement of the Third Pillar (intergovernmental) JHA Council set the legislative and policy-making process of the European Union in train. The European Commission responded to the Council's request with a reiteration of the same aims. On 15 November 2001 it issued a Communication on a common policy on illegal immigration which declared that:

Border controls must in particular respond to the challenges of an efficient fight against criminal networks, of trustworthy action against terrorist risks and of creating mutual confidence between those Member States which have abandoned border controls at their internal frontiers. (Commission, 2001)

Again, there is a reiteration of the assumption that sources of insecurity must come from 'outside' and that immigrants to the EU are a major source of insecurity. The call for 'trustworthy action' also signals a desire to constitute solidarity between the Member States as some kind of security community. These post-9/11 'speech acts' demonstrate the argument that European security practices not only seek to address particular security challenges instrumentally, but also attempt to construct a notion of European identity at the same time. As Wæver argues:

[Q]uestions about organizing European security are always subjected to a dual security evaluation. At one level, there is a discussion in more 'traditional' terms about the benefits of this or that organization [. . .] and the appropriateness of these constructs in relation to the expected challenges and threats, but at another level, the construct is judged in terms of the impact on the actor and thereby the being of the EU. (Wæver, 2000, p. 281)

Regarding the 'being' of the EU, Jef Huysmans goes further and puts it more succinctly: '*Securitization constitutes political unity* by means of placing it in an existentially hostile environment and asserting an obligation to free it from threat' (Huysmans, 2006, p. 50, author's emphasis). The identity of 'Europe', whether political, institutional or popular, is at best a problem (Walker, 2000). In the field of European Union politics there is a latent political will to constitute European unity, which supports the interpretation of EU responses to 9/11 in terms of securitization.

The themes of these institutional statements were put on a more concrete path by the conclusions of the European Council of Laeken of 14 and 15 December 2001, the key passage of which reads:



Better management of the Union's external border controls will help in the fight against terrorism, illegal immigration networks and the traffic in human beings. The European Council asks the Council and the Commission to work out arrangements for co-operation between services responsible for external border control and to examine the conditions in which a mechanism or common services to control external borders could be created. (Council of the European Union, 2001b)

In the final months of 2001, the first part of a classic securitizing process was being played out. Securitizing speech acts linked migration with security, borders and terrorism. A 'threat' was defined with legitimate authority, an attempt was made to constitute political unity and the construction of the means to tackle the 'threat' was put under way. This resembles Huysmans' definition of securitization: 'Securitization is characterized by a circular logic of defining and modulating hostile factors for the purpose of countering them politically and administratively' (Huysmans, 2006, p. 61).

### *2001–03 The Evaporation of Urgency*

If securitizing moves were apparent in the final months of 2001, the logic of securitization did not continue as one might have anticipated. What followed did not resemble the pursuit of Wæver's 'extraordinary means' (Wæver, 2000, p. 251). The policies pursued were not even particularly contentious by previous standards. In fact the political process that followed was rather ordinary in terms of the regular dynamics of EU politics. What unfolded between 2001 and 2003 was a process of negotiation, accommodation and compromise between the Commission and the Council, and in turn a process of negation, accommodation and compromise between the Member States within the Council. The main point of contention was the proposed creation of a European Border Police or European Border Guard. This idea would eventually form the embryonic basis of FRONTEX, but FRONTEX is not what was pursued between 2001 and 2003.

In October 2001, Belgium, France, Germany, Italy and Spain had embarked upon a feasibility study on the idea of a 'European Border Police'. The United Kingdom led other Member States in expressing reservations about the idea, no doubt for traditional reasons about state sovereignty over borders, although it was agreed that more co-operation was needed in this policy area (House of Lords, 2003).

Following this contention, the Presidency Conclusions of the Laeken European Council of December 2001 (discussed above) stepped back from the border police idea. In the words of the 2003 Report of the House of Lords Select Committee on the European Union, 'the Laeken European Council



arrived at a carefully worded compromise on co-operation on external border issues [. . .]. The term “European Border Police” or “European Border Guard”, although already used by some Member States’ governments, did not appear in the mandate’ (House of Lords, 2003). Instead, the Council called for ‘further work’ towards common co-operative external border control mechanisms (Council of the European Union, 2001b).

The controversy over the creation of a European Border Police/Guard continued in May 2002, when the European Commission responded with a Communication entitled, ‘Towards Integrated Management of the External Borders of the Member States of the European Union’. This coincided with the results of the feasibility study on a European Border Police, which did not decide clearly for or against such a project (House of Lords, 2003). Nevertheless, the Commission document set out a longer-term programme which would eventually lead ‘towards a European corps of border guards’ (Commission, 2002, p. 12).

In June 2002 the European Council responded in turn with its ‘Plan for the management of the external borders of the EU’, which became known as the ‘Action Plan’. This watered down the integrationist moves of the Commission and certain Member States, ‘placing less emphasis on common legislation and financing and [. . .] referring only in rather vague terms to a later “possible decision” on the setting-up of a European Corps of Border Guards, which would support but not replace national border police forces’ (House of Lords, 2003). The ‘Action Plan’ identified the need to increase co-operation, co-ordination, convergence and consistency between border practitioners in the EU Member States, but effectively dropped the idea of a European Border Guard (Council of the European Union, 2002, p. 10).

Instead, the tangible outcome of the ‘Action Plan’ was the creation of a number of national pilot projects under the umbrella of an ‘External Border Practitioners Common Unit’, which consisted of the ‘Strategic Committee on Immigration, Frontiers and Asylum’ (SCIFA) plus the heads of national border control services, which together became known as SCIFA+. This unit would lead the common policy on external border management and work towards the aims of the ‘Action Plan’. The means by which these aims would be achieved would be the creation of ‘national contact points’ to aid communication and co-ordination, and the creation of a network of ‘ad hoc centres’ overseeing operational pilot projects in Member States (Council of the European Union, 2002, p. 14). These would include projects for land, maritime and air borders, and for risk analysis.

A year after the ‘Action Plan’ and nearly two years after 9/11, very little concrete and operational progress had been made. A document issued by the European Council on 6 June 2003 restated the aims of the ‘Action Plan’, but

also remarked on the concerns of the Member States about ‘the need for improving the procedures and methods of work of the Strategic Committee on Immigration, Frontiers and Asylum [SCIFA] and the [External Borders Practitioners] Common Unit in order to strengthen the operational role of the Common Unit’, and, most significantly, noted ‘the difficulties involved in placing more emphasis on operational matters, in its current formation’ (Council of the European Union, 2003a). In other words, any sense of urgency had translated into bureaucracy and a lack of concrete operational progress.

A Commission official from the Borders and Visas unit at DG Justice, Freedom and Security explains the situation in 2003 in much stronger terms:

The problem of that working group [the External Borders Practitioners Common Unit] was that it met approximately once a month, and it was highly politicized, not really looking at what they needed to do at the European level, but only at promoting individual Member States’ pet projects. And nobody was against anything there because that would block their own pet project from getting through [. . .]. The ultimate patchwork [. . .]. It wasn’t particularly useful co-operation, but it was something that everybody felt was needed, to take this next step after the 9/11 attacks etc. and what was happening in the US. But the US built a mastodon [The Department for Homeland Security], we simply just disintegrated ourselves [. . .]. [The Council] realized this wasn’t going to work, they had a lot of fancy designs for logos, interesting meetings, some strange compromises, and absolutely no tangible results to show off to the European public. (anonymous, 2006)

This juncture poses a particularly interesting set of questions. What had become of the securitizing moves of 2001? Did they in effect ‘fail’? Or did they continue to exert their influence on EU policy despite their lack of translation into ‘tangible results’ by 2003? Either way, the policy process from 2001 to 2003 hardly resembles an assertion of the ‘right to use extraordinary means’ or ‘to violate rules that otherwise would bind’ (Wæver, 2000, p. 251).

### *The Establishment of FRONTEX*

Following this realization of a lack of concrete progress, the Greek Presidency of the Council in the latter half of 2003 resurrected the idea of a mechanism for the common management of the external borders of the EU (Council of the European Union, 2003b). In response, the idea of FRONTEX was first floated within the Commission in November 2003 (Commission of the European Communities, 2003; Hobolth, 2006, p. 6). From here it took less

than a year for the agency to be established (Council of the European Union, 2004).

Interestingly, by 2003 the term ‘security’ had largely disappeared from the main aims of the external border management plans. Although reference was made to various security agencies, the plans now lacked the sense of ‘urgency’ initially present in September 2001. Instead, common external borders management now appeared as a largely technocratic project. The link between security, terrorism, migration and borders that was present in 2001 and 2002 was being institutionalized, but the outcomes no longer resembled the urgent and extraordinary measures that securitization theory would expect.

The main point of contention in the establishment of FRONTEX was not the legitimization of urgent security measures, but the question of which EU institution had jurisdiction over external border control. Although it was stressed at every stage and by every institution that borders would remain the responsibility of Member States, FRONTEX, as a Community agency, would represent a substantial shift from the previous intergovernmental approach to external borders management under the Council between 2001 and 2003 (Guild, 2006a).

Mogens Hobolth comments that with these considerations in mind, ‘the Commission apparently decided not to present a “controversial” proposal’ (Hobolth, 2006, p. 6). Thus the proposed agency would not be purely under the remit of the Commission as would normally be the case, but rather would fall under a mixture of both intergovernmental and supranational control. As it now stands, the management board of FRONTEX consists of two Commission officials plus the heads of national border guard services (Carrera, 2007, p. 13; Laitinen, 2006a), which is quite unusual for an EU agency. This is the outcome of political wrangling in which the ‘European Parliament saw the proposal as overall “rather intergovernmental” in granting a too limited role for the Commission and the Parliament’ (Hobolth, 2006, p. 8), but the Commission did not want to ‘controversially’ challenge Member State sovereignty over national borders.

Again, the political process here dampens the expectation that some kind of ‘exceptionalism’ followed from the securitizing moves of 2001. With the Commission deliberately steering clear of controversy, it is difficult to say that the EU institutions were pursuing policies that would not have been deemed legitimate in other ‘non-securitized’ circumstances. At two years’ distance from the securitizing moves of 2001, and coming after the lack of concrete progress of 2001–03, it is hard to argue that 9/11 and attendant ‘securitizing’ responses had a direct positive effect on the creation of FRONTEX. Referring back to the original question of whether the creation of

FRONTEX represented the institutionalization of the post-9/11 securitization of migration in the EU, the answer must be a qualified 'no'.

Enquiries in Brussels for this article all gave the same answer to this question: FRONTEX, or something like it, would have come about with or without 9/11<sup>3</sup> (Laitinen, 2006b). FRONTEX is considered a logical continuation of the integration process and the principle of free internal movement in the EU, although this does not completely discount the security dimension. This is also how the 'official story' of the origins of FRONTEX is presented on the agency's website: 'Implementation of *free movement of people*, promised to European citizens in the Treaty of Rome, meant in one of its aspects the abolishment of border checks between Member States' (their emphasis).<sup>4</sup> In the next paragraph, FRONTEX is presented as a logical step in that process: '*Border security* being a part of that phenomenon has also undergone evolution starting from nationally focused systems underlying the sovereignty of each state to operational co-operation at the external borders'.<sup>5</sup>

Of course, this official narrative serves to present the existence of the agency in positive terms, and that is not surprising. But this rather neutral, technocratic and professional discourse is one of the recurring features in the case of FRONTEX. It contrasts with what would be expected of 'securitization' or 'exceptional politics'. Nevertheless, it is important to offer some resistance to the neutral and positive official story of FRONTEX by situating the development of the agency within broader changes in EU migration policy.

Asylum and migration were of course controversial areas of EU policy before 2001 and the EU was by no means a liberal haven of free migration from non-EU countries before 9/11. Carl Levy reminds us that since the early 1990s far-right parties have made notable electoral inroads in many European states, with the uniting common feature of a 'harsh stance against asylum seekers and refugees' (Levy, 2005, p. 26). European governments have largely appeased this sentiment by responding with an ongoing tightening of migration controls. (Levy argues that since 9/11, migration in the EU *has* been 'securitized'. In this article it is argued that there is a more subtle process at work.)

<sup>3</sup> Interviews with Joanna Apap, Administrator at the European Parliament in DG Internal Policies, Directorate C, Policy Unit on Citizens' Rights and Constitutional Affairs', Brussels, 6 October 2006; and with Antoine Cahen, European Parliament Administrator, Head of Unit, Libe Secretariat, Committee on Civil Liberties, Justice and Home Affairs', Brussels, 5 October 2006.

<sup>4</sup> FRONTEX website 'Origin'. Available at: <[http://www.FRONTEX.europa.eu/origin\\_and\\_tasks/origin/](http://www.FRONTEX.europa.eu/origin_and_tasks/origin/)>.

<sup>5</sup> FRONTEX website 'Origin'. Available at: <[http://www.FRONTEX.europa.eu/origin\\_and\\_tasks/origin/](http://www.FRONTEX.europa.eu/origin_and_tasks/origin/)>.

In addition to this longer view, FRONTEX must also be understood in its proper institutional context. It is only one of a number of initiatives which, according to Elspeth Guild, represent a 'hardening of the tools of control' of the EU border system since 2001 (Guild, 2006b). Guild explains that in addition to FRONTEX, there are five other of these tools: (1) the Schengen Information System; (2) a common list of countries whose nationals require visas; (3) a common format and rules of issue for short-stay visas; (4) the Visa Information System; and (5) carrier sanctions and passenger data transmission (Guild, 2006b). The governmental initiatives of the EU are united by an emphasis on technology, data sharing as well as common systems and standards. The external borders agency FRONTEX is absolutely of the same ilk, although ironically Guild argues that the combined effect of these initiatives is that, in 'both law and practice the border for the movement of persons to and within Europe is no longer consistent with the edges of the physical territory of the Member States' (Guild, 2006b).

The Madrid bombings of March 2004 were a key milestone in the development of EU policy. Interestingly, the EU response to this attack continued the theme of securitizing language, but did not call for the construction of new institutions, or for extraordinary measures for that matter. The following quote from the Commission's 'Action paper in response to the terrorist attacks on Madrid' is illustrative: 'We cannot go on producing networks and institutions and then refuse to provide them with the necessary tools to perform their jobs or simply not use them. Much has been done. Let us use it' (Commission, 2004). The document goes on to list a number of proposals which for the most part focus on expanding the remit, use or efficiency of existing instruments such as Europol, information and intelligence sharing systems and the European arrest warrant. However, no mention of FRONTEX is made directly; rather, border management is mentioned only in the context of passport standards, biometrics (specifically passport fingerprints) and a European database of travel documents. Furthermore, no mention at all is made of migration or asylum, independently or in relation to terrorism, which is in stark contrast to the EU responses to 9/11 discussed above, even though a number of the bombers were Moroccan citizens. The EU security discourse clearly evolved between 2001 and 2004, and while the Madrid bombings brought a renewed impetus, they did not prompt an 'exceptional' or 'urgent' change of tack. This perhaps reflected frustrations felt at the lack of concrete progress in the development of security measures since 2001. The lack of reference to both FRONTEX and migration reinforces the argument that the decision to create the agency in 2004 did not relate directly to a discourse of securitization. This does not mean that the influence of 'securitization' should be written off completely. It is widely considered that 9/11 and Madrid

focused the minds of policy-makers and increased political will (see for example House of Lords, 2003; Levy, 2005). However, the formal-discursive tenets of securitization theory do look rather tenuous in the case of FRONTEX.

Migration and external border controls clearly have been tightened over time, but this process was in train before 2001. Although 9/11 prompted discourses of emergency and Madrid brought renewed impetus, this was not securitization as we would normally understand it. The 'extraordinary means' and 'exceptionalism' supposed by securitization theory, inspired by the classic debates on emergency powers from inter-war Germany, imply a decisionistic break from the norm and perhaps a return to the norm once the (constructed) emergency has been dealt with. In the EU, and arguably in complex 21st-century societies more generally, it does not work like that. It is the norm that is changing. The new and controversial quickly become 'normal', whether through the breeding of intersubjective familiarity or through practices of institutional and legal normalization.

### **III. The Remit and Operation of FRONTEX**

So far, this article has demonstrated that FRONTEX was established not on the basis of securitization, exceptional politics and urgency, but in response to the disintegration of a common EU response to migration, security and borders. This section will explore the operational remit of FRONTEX as it currently stands in order to continue the same line of questioning: if FRONTEX is not a direct product of the attempted securitization of migration by the key EU institutions in late 2001, does it nevertheless represent a 'securitized' policy outcome? In other words, despite the apparent institutional 'failure' of the EU's securitization of migration and external borders in the final months of 2001, does FRONTEX now represent any kind of 'extraordinary means' to deal with the identified 'threat', or even a set of practices that would have appeared controversial in other circumstances?

The question is complicated by the operational inception of FRONTEX in October 2005. The agency can no longer be considered simply as a policy outcome alone, for it is perhaps now a tool or even an agent that may be able to act in its own right. In other words, despite its unexceptional origins, FRONTEX may nevertheless be a tool of securitization or a securitizing actor.

In fact the agency performs many roles, and these do not conform to a single overarching logic. On the one hand its operational remit depends heavily on a concept of 'risk', which is subdivided into risk assessment functions that are directed not only at the 'threat' of potential migration flows, but also towards



the border management capacities and practices of EU Member States themselves. On the other hand, the agency is a tool that is available for Member States to call upon and use in response to migration ‘emergencies’ constructed at the national level, as in the example of Spain and the FRONTEX operation in the Canary Islands in March–April 2006 (Carrera, 2007, p. 12). The next two subsections will consider these two angles.

*The ‘Risk Model’ of FRONTEX as the Opposite of Securitization*

Although FRONTEX is still in its infancy, it is growing each year. From a budget of a ‘tiny’ €12 million and 51 staff in its first year (Laitinen, 2006a; Laitinen, 2006b), it had a budget of €22 million in 2007 and a staff of 138 in 2008.<sup>6</sup> Its organizational structure is divided into six units, including units for risk analysis, operations, border guard training and research and development. The operations section is divided into four sub-units, these being land borders, sea borders, airport operations and a final sub-unit for co-ordinated operations and return operations (Laitinen, 2006b). The training unit focuses on developing a ‘core curriculum’ for the border guards of the Member States, while the returns component is described as a ‘travel agency’ for the use of Member States in organizing returns of migrants (Laitinen, 2006a).

Ilkka Laitinen, the head of the agency, presents FRONTEX as above all a co-ordinating body with very few executive powers (Laitinen, 2006b, 2006a). This is on the basis that it is dependent on executive political leadership from elsewhere, does not have the capacity to make political decisions about launching operations and aims to facilitate co-operation between the Member States and with third countries. Having no operational assets of its own, its major operations are dependent on contributions of resources by Member States.

Sergio Carrera has criticized the way in which FRONTEX has been presented as a ‘depoliticized and intelligence-based body’ because of its dependence on the ‘emergency driven’ demands of the Member States and the ‘significant influence’ of the Commission on the agency’s activities (Carrera, 2007, p. 8). We will consider this shortly, but in terms of many of its day-to-day activities, FRONTEX is arguably the *opposite* of securitization or exceptionalism, in that it aims to regulate and harmonize the border practices of individual states, preventing the arbitrariness and erosion of rights that are associated with national sovereignty over borders and migration. In this sense, FRONTEX is not the institutionalization of exceptionalism, but the

<sup>6</sup> FRONTEX website ‘FAQ’. Available at: <<http://www.frontex.europa.eu/faq/>>; and FRONTEX website ‘Finance’. Available at: <<http://www.frontex.europa.eu/finance/>>.



institutionalization of *normalization* in the form of European Union technologies and regulations. As Elspeth Guild explains for example, from 13 October 2006:

a new border code comes into force which must be applied by both FRONTEX and Member States. Under that code, anyone refused at the border must be given written reasons why, they must be told about their right of appeal, and they must be given access to lawyers to exercise those rights of appeal in national law. (Guild, 2006a)

FRONTEX plays a role in ensuring the application of a common approach within these minimum guarantees; it has a regulatory function. Its practices aim to reduce the potential decisionism, arbitrariness and disparity of Member State border practices. This supports a textbook interpretation of European integration as regulating traditional sovereign rule by nation-states so that the rule of law and common procedures come to replace state judgements based on self-interest or populism. FRONTEX does this through the development of a core curriculum for border guard training, through its assessment of the 'deficiencies and loopholes of border security' in Member States and through the development and proliferation of 'best practices' (Laitinen, 2006b).

The regulatory role of FRONTEX is partly contained in its 'Common Integrated Risk Analysis Model (CIRAM)', its central *modus operandi* (Laitinen, 2006b). The prevalence of the concept of 'risk' is one of the most intriguing aspects of FRONTEX, as it seems to represent a move away from the political spectacle of the security emergency in favour of a quieter and more technocratic approach. For example, in the 11-page Council regulation that established the agency, the term 'security' is only used once, and that is simply in reference to the EU principle of an area of freedom, security and justice (Council of the European Union, 2004). The term 'risk', on the other hand, appears nine times. FRONTEX is tasked with the development of a risk analysis model and the undertaking of risk analysis, 'in order to provide the Community and the Member States with adequate information to allow for appropriate measures to be taken or to tackle identified threats and risks' (Council of the European Union, 2004).

The risk analysis model is bifurcated in that it is directed at both the (potential) movement of people and the capacities and weaknesses of Member State border systems. The first aspect is essentially a technological and biopolitical project that aims to predict the location, form and size of increased numbers of people on the move outside the borders of the EU. Laitinen presents this function as follows:

we assess what is the likely threat that threatens the external borders, border security, and EU citizens from outside. In other words, criminal pressure, in

terms of illegal migration, human trafficking, and so on, not disregarding other types of organized crime and fighting international terrorism. (Laitinen, 2006b)

While this clearly links a whole series of phenomena together under the category of threat, the logic is not one of response but rather of anticipation and management. This corresponds to what Didier Bigo describes as: 'a proactive logic which anticipates the risks and the threats, locating the potential adversaries even before they have any consciousness of being a threat to others' (Bigo, 2005, p. 86). It is no longer a case of intercepting the 'threat' as it arrives at the border, but of 'assessing' the 'threats' 'likely' to emerge in the future.

The second aspect of the risk analysis model is focused on the capabilities of 'Member State borders and security systems' and their capacity to know what is happening in terms of migration (Laitinen, 2006b). Hence the analytical and predictive gaze of FRONTEX is not simply directed towards the emergence, location, scale and nature of future 'threats' or movements of people, but also on the border capacities of the Member States themselves. FRONTEX seeks to assess the 'risk' that the weaknesses of existing Member State border regimes pose to the 'effective' management of migration at the external borders of the EU. Although this is to an extent focused towards the prediction of crisis situations and operational needs, it has a regulatory and disciplinary function that promotes the 'improvement' of external border management through integration.

This bifurcated modality of 'risk' feeds into debates about its rise as a concept and practice. Aradau and Van Munster (2007) argue, contra Ulrich Beck, that 'risk' is not an overarching logic of unpredictable catastrophe in a macro-sociological understanding of late modernity, but rather a *dispositif*, a term borrowed from Michel Foucault to denote a series of micro-practices that are plural and heterogeneous. The case of FRONTEX supports their argument. Its technical practices do not signify the rise of risk as a phenomenon that goes 'beyond rational calculation into the realm of unpredictable turbulence' (Beck, cited in Aradau and Van Munster, 2007, p. 90), but rather an example of the proliferation of diversified technological governmentalities that are quite different to the spectacle of sovereign power and catastrophic emergency (see Foucault, 2002).

### *FRONTEX and the Return of Security*

In the operations and practices of FRONTEX, the governmentality of risk is combined with a state-driven emergency response function that demonstrates something of a paradox of interpretation. On the one hand FRONTEX is a

regulatory agency that develops technological and bureaucratic means for the harmonization of external EU border management and control, which to an extent represent the opposite of securitization or exceptionalism. On the other hand FRONTEX is a borders agency that is frequently at the behest of the Member States, enmeshed in a discourse that aims to signify the drawing of dividing lines in some shape or form. As Carrera argues, 'Ever since its establishment there has been a constant political demand from particular Member States for an "urgent and rapid action" by the Agency to deal with the various challenges inherent to holding common external borders of the EU' (Carrera, 2007, p. 12).

Thus there is a marked difference between the 'uncontroversial' nature of the agency's origins and original risk-dominated remit, and the demands for 'urgent and rapid action' being placed on the agency by Member States more recently. Indeed, this demand was institutionalized on 11 July 2007 when the Parliament and Council amended the Regulation that founded FRONTEX (Council of the European Union, 2004) in order to facilitate the creation of Rapid Border Intervention Teams (RABITs) (European Parliament and Council, 2007).<sup>7</sup> The first RABIT training exercise took place on the Slovenian/Croatian border on 10 April 2008, involving border guards from 20 Member States conducting surveillance and border checks as part of a fictional scenario on the 'Balkan route' of 'illegal migration'.<sup>8</sup>

Furthermore, in contrast to the rather neutral language through which the agency was founded, once it became operational, the language of security returned to its discourses. Laitinen talks about 'assessing the likely *threat* that *threatens* the external borders, border *security* and EU citizens from outside'. Crime, illegal immigration, human trafficking and international terrorism are all uttered in the same breath, and FRONTEX seeks to address 'weaknesses' in national border controls. The FRONTEX mission statement displayed on its website proclaims that 'FRONTEX strengthens border security by ensuring the co-ordination of Member States' actions in the implementation of Community measures relating to the management of the external borders'. Compare this with the Council regulation that established FRONTEX which makes no mention of security or 'strengthening' borders (Council of the European Union, 2004).

The words of the head of FRONTEX are not particularly important in the grand scheme of the politics of security in the EU, but the seemingly contradictory roles of the agency are in many ways a microcosm of its structural tensions. Does the EU have a capacity to decide on the exception? FRONTEX

<sup>7</sup> FRONTEX 'Legal Bases'. Available at: <[http://www.fronTEX.europa.eu/legal\\_basis](http://www.fronTEX.europa.eu/legal_basis)>.

<sup>8</sup> FRONTEX 'Rapid Border Intervention Teams (Rabits) Exercise in Slovenia'. Available at: <[http://www.fronTEX.europa.eu/newsroom/news\\_releases/art35.html](http://www.fronTEX.europa.eu/newsroom/news_releases/art35.html)>.

demonstrates that this can only be answered in a plural way. On the one hand, the Community institutions and agencies do not, but make up for it with an extensive capacity for institutionalization, normalization and regulation. The risk analysis modality of FRONTEX is an advanced form of these normalizing practices. On the other hand, at least some of the Member States appear intent on reasserting a sovereign right to declare exceptions and construct emergencies. The July 2007 amendment to FRONTEX and the creation of the Rapid Border Intervention Team programme do not demonstrate that the Member States necessarily *have* this capacity, but rather that they are attempting to reassert that they do through FRONTEX. For example, Bigo argues it is a myth that,

if one has the political will, one can close the borders or at least control foreigners who want to enter a given territory. If one wants to change the norms of a liberal society one (if he is sovereign) can do it by suspending the normal law and creating an exceptional one. But these two assessments are wrong. Decisionism is an illusion. (Bigo, 2005, p. 75)

The EU borders agency is a venue in which the contest over the capacity to decide on the exception is being played out. This process is more complex than one of securitization or exceptionalism. While the term ‘security’ has returned to the discourses of FRONTEX, this sits alongside the (perhaps deliberately) less controversial discourse of regulation, best practice, training, co-ordination and management. And while the Member States speak of ‘urgency’, for the most part FRONTEX speaks ‘risk’ as a series of quiet, professional, technical practices.

### **Conclusion: The Governmentality of Unease**

This concluding section will argue that the case of FRONTEX and the more general question of security discourses and practices in the EU reveal the limitations of securitization theory. Whatever ‘security’ may be, it cannot be understood through a single overarching logic. While securitization theory has done much to problematize the construction of security threats, practices of government have become too complex, too plural and too diverse to maintain the plausibility of a sovereign centred, nominalist understanding of security. The structural complexity of the EU and its agencies compounds this. A constructivist understanding of security may not try to specify what security and its practices are, but it does try to specify who constructs security (political elites, generally states), how they construct security (through the dramatic grammar of security under certain conditions) and where they construct security (in the public, intersubjective, discursive sphere). The attempt

to adapt this model to the institutions of the EU does not tell us very much. This study has shown that although the spectacle of discursive securitization can be identified fairly easily in the institutions of the EU, any causal relationship with policy changes or outcomes is much harder to discern.

This does not discount the existence and spectacle of securitizing moves in political discourses, but it problematizes the assumed link between these discourses and institutional outcomes. Hence Huysmans separates technocratic politics from the political spectacle, arguing that the latter is 'a game in which the parties position themselves so as to be identifiable as having the support of the people' (Huysmans, 2006, p. 82). Although politicians frequently aim to be publicly identified with issues such as security and with the creation of new governmental apparatuses and technologies, this does not mean that they necessarily have control over both, or that the one follows from the other.

This is partly because of the complexities of organizational behaviour (Boswell, 2007), partly because the assertion of sovereign exceptionalism does not necessarily mean a capacity for sovereign exceptionalism (Bigo, 2005) and partly because practices of both security and risk are becoming increasingly plural and heterogeneous (Aradau and Van Munster, 2007). Much of what is being done in the name of security is quiet, technical and unspectacular, in the EU intensely so, and just as much again does not declare itself to be in the name of security at all.

These processes and practices are driven not simply by a logic of crisis, emergency and exception, but through the formation of linkages between diverse policy areas, different technologies and security professionals of different specializations. It could be considered that these linkages constitute a 'security continuum', rather than a discrete sphere of security that can be distinguished from 'normal' politics (Huysmans, 2006, p. 72). The result is not simply a 'politics of exception' but a 'governmentality of unease' (Bigo, 2002).

The notion of a 'governmentality of unease' offers a way to consider the linking of terrorism, security, migration and borders that does not assume the importance of a dramatic invocation of existential threats and exceptional measures. The linking of different policy areas can instead be considered as an effect of the dynamic relations of a 'field'<sup>9</sup> for the most part constituted through the practices of innumerable 'security professionals' often working out of the public eye (Bigo, 2002). This stresses the institutionalization of links between different policy areas such as external border control, asylum

<sup>9</sup> The concept of the 'field' originates in the work of Pierre Bourdieu. See for example Bourdieu, 1984.

and anti-terrorism policy that have formed not simply in the statements of politicians, but in the complex technologies, knowledges and techniques of European governance themselves.

These technical and governmental links are expressed in the diverse array of operational practices of FRONTEX, but particularly in its multifaceted 'risk analysis' model which seeks to manage and regulate both migration and the practices of Member State border security apparatuses. FRONTEX must also be considered in the context of the numerous other institutional, technical and legal tools being developed by the EU for the management of migration, security and indeed many other areas of policy. Given that this complexity far exceeds that of the political theatre of securitization, we should be less concerned with a spectacular dialectic of norm/exception and more concerned with an ongoing process of incremental normalization that is not quite spectacular or controversial enough to draw attention to itself.

The import of FRONTEX has changed over time, from the initial 'securitized' proposals for a European Border Guard, through the 'uncontroversial' creation of an intelligence-led risk management agency, and now to an attempted reassertion of state exceptionalism through the creation of Rapid Border Intervention Teams. Hence FRONTEX is both a locus of a normalizing *dispositif* of complex technological governmental practices and a site of contestation over the fate of the sovereign capacity to decide on the exception.

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