

## **A community of borders, borders of the community The EU's integrated border management strategy**

*Denis Duez<sup>1</sup>*

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The construction of a political community is often explained by a process founded on the emergence of feelings of solidarity between individuals. Such solidarity is the result of a common history, of a culture, of a language or even of a political project or of values shared by all components of the social body. It is often the result of deepening relationships between people and of the discovery of *the Other* and of its status as an *alter ego*. Collective identity, where it exists, is above all a question of affection, even friendship, between fellow citizens. At the European level, the transition of multiple *demoi* to a single European *demos* could also be seen as a double process. Firstly, it would be a vertical process of attachment to the European project, to its values and symbols. Secondly, it would be a horizontal process in which sentiments of friendship between European citizens are strengthened. The narrative that Europe has chosen to promote in recounting its own history is a narrative of friendship between peoples and of bridges successfully crossed. It is a narrative of reconciliation, solidarity and recognition of *the other* and of differences.

However, political history as well as the history of political ideas teaches us that the formation of a unified social body is not always founded on positive sentiments and love between compatriots, and even that that is quite rare. The body politic is also the product of historical turmoil, wars and armed combats of all kinds. It is built on hostilities, even hatreds, as much as upon friendship. It is a defence mechanism leading men to join together and unite, not necessarily because they have any mutual regard but because they are attempting to jointly protect what is dear to them. Indeed, since Thomas Hobbes and theories of the Social Contract, a number of writers have underlined the crucial role played by insecurity and fear in the emergence of feelings of belonging<sup>2</sup>.

This reasoning, often used to explain the formation of national identities and the structuring of modern States, appears to us to be equally useful when applied to the European Union. The progressive application of Community projects for internal security and integrated management of external borders provides a new context for such questions. On the basis of this suggestion, we analyse in the following pages the impact of Community policies directed against illegal immigration on the emergence of a "community of Europeans ». In fact, it seems to us that in posing the question of controlling the Union's external borders, illegal immigration also poses the question of symbolic and mental borders defining the conditions for belonging to a particular political order. It provides an identification principle for defining the contours of the body politic.

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<sup>1</sup> D. Duez is lecturer in political science and director of the Institute for European Studies at the Facultés universitaires Saint-Louis, Brussels.

<sup>2</sup> D. Duez, "L'Europe et les clandestins : la peur de l'Autre comme facteur d'intégration ?", *Politique européenne*, n°26, 2008, pp. 97-119.

In the pages that follow, we explore the hypothesis that the European integrated management project for the Union's external borders cannot be entirely reduced to a policy for managing migratory flows, but that it must also be seen as a politically constructed discourse on the dangers weighing on Europe. This policy encourages a distinction between «them» and «us» which contributes to the process of forging a European political community on the basis of an emotion, namely anxiety concerning, or even fear of, *the Other*. In a situation in which a culturally or politically homogeneous whole has not been created, Europeans thus find themselves united and sharing a sense of solidarity as a consequence of a shared feeling of collective insecurity.

### **Unfolding the IBM: Towards common controls at the external European border**

Launched in the post-September 11 context, the IBM project has become one of the priorities of the EU's Justice and Home Affairs. This project, that is very directly inspired by policies developed in the United States, is characterized by the implementation of a surveillance of external borders strategy revealing two major trends, namely the militarization of border controls and an extensive use of new technology.

#### *Integrated management of external borders: a priority for the European Union*

On 13 February 2008, the European Commission tabled what could be called, in Union jargon, a «Border Package». This package included three communications relating to integrated management of European external borders. It can be seen that the Commission took an important step in a process that had begun several years previously at the Laeken European Council in December 2001. Following the 11 September 2001 terrorist attacks, European governments and heads of State made a solemn declaration that “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<sup>3</sup> ». Border management was thus put very high in the political priorities of the Union. This political initiative accelerated intergovernmental cooperation that had started in the mid-eighties within the framework of the Schengen Agreements, and amplified in the nineties on the basis of the 1992 Maastricht Treaty, within the third pillar of the Union and as part of the implementation of the area of freedom, security and justice (AFSJ)<sup>4</sup>. The 2008 «Borders Package» did not therefore emerge from a vacuum. It brought together and extended the principles and practices applied since at least 2001 with regard to integrated management of Union external borders.

Of the three communications made public by the Commission, two suggest important changes with regard to the role played by the European Agency for the Management of Operational Co-operation at the External Borders of the Member States of the European Union (Frontex): the communication on the evaluation and future development of the Frontex agency<sup>5</sup> and the communication on examining the creation of a European Border Surveillance System

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<sup>3</sup> European Council, *Presidency conclusions*, Laeken, 14-15 Decembre 2001, point 42.

<sup>4</sup> D. Duez, *L'Union européenne et l'immigration clandestine. De la sécurité intérieure à la construction de la communauté politique*, Bruxelles, Éditions de l'Université de Bruxelles, coll. “Études européennes”, 2008, chapter 2.

<sup>5</sup> European Commission, “Report on the evaluation and future development of the FRONTEX Agency”, Communication of the Commission, 13 February 2008, COM (2008) 67 final.

(EUROSUR)<sup>6</sup>. The third more programmatic document proposed various ways to prepare for the next steps in European Union border management<sup>7</sup>.

A little less than three years after the Frontex Agency began work in May 2005, and in accordance with an injunction appearing in the Hague Programme, the Commission undertook an initial assessment of its operational agency. At the same time, the whole European *Integrated Border Management* project was re-examined. In spite of the absence of any objective overview of the activities of Frontex, the Commission gave a good overall grade to the Agency<sup>8</sup>. In addition, it recommended a widening of Frontex' remit to the degree required by specific needs, in order to enable it to occupy a central role in the strategy for integrated management of Union borders<sup>9</sup>.

In fact, Frontex's role was already being strengthened before the Commission's positive assessment given. Whilst the initial Agency budget amounted to 6.2 million Euros in 2005, by 2006 it had already reached 19.2 million. By 2007, the figure had risen to 41.9 million, and by 2008, the year in which the «Borders Package» was adopted, it had reached 71.2 million. For the year 2011, this budget amounted to some 92.8 million Euros, or thirteen times the sum allocated in 2005 and four times the sum granted in 2006, the first full year of the Agency's activities<sup>10</sup>.

This confidence in the future development of the Agency raises several questions. On reading the Commission documents, one cannot fail to notice that they contain no critical assessment of Frontex activities for the period 2005-2007. Based upon an essentially quantitative approach, the evaluation stresses mainly the growth in the number of joint operations carried out on the land, sea and air borders of the European Union; the number of people arrested or refused entry at borders during such operations; or the number of ships, planes, helicopters and other surveillance equipment (radar, vehicles, thermal cameras and mobile detectors) recorded in the Centralised Record of Available Technical Equipment (CRATE).

This purely statistical interpretation - which is also the kind of interpretation to be found in the annual Agency activity reports - gives only a very restricted picture of the work carried out by Frontex. It says nothing about difficulties encountered on the ground. The difficulties experienced by the Agency in mobilising the human and material resources made theoretically available to it by the Member States in the context of joint operations are ignored. However, it will be remembered that, for example, the NAUTILUS patrol operation in the central Mediterranean was interrupted for several weeks during the summer of 2007 as a result of insufficient resources contributed by the Member States<sup>11</sup>. In reality, solidarity and commitment, subscribed to in public, are sometimes undermined by the unwillingness of Member States to fully participate. The Agency's operations can stumble, in particular over the delicate question of how financial costs linked to joint operations are to be allocated. The

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<sup>6</sup> European Commission, "Examining the creation of a European Border Surveillance System (EUROSUR)", Communication of the Commission, 13 February COM (2008) 68 final.

<sup>7</sup> European Commission, "Preparing the next steps in border management in the European Union", Communication of the Commission, 13 February 2008, COM (2008) 69 final.

<sup>8</sup> J. Jeandesboz, "Reinforcing the Surveillance of EU Borders: The Future Development of FRONTEX and EUROSUR", CHALLENGE papers, August 2008, p.5.

<sup>9</sup> European Commission, "Report on the evaluation and future development of the FRONTEX Agency", *op. cit.*, p.9.

<sup>10</sup> Details of the Frontex budget are available on the Agency's site at: [http://www.frontex.europa.eu/budget\\_and\\_finance/](http://www.frontex.europa.eu/budget_and_finance/)

<sup>11</sup> D. Duez, *L'Union européenne et l'immigration clandestine*, *op. cit.*, p. 136.

responsibilities of the States in terms of reception of migrants intercepted at sea is another obstacle, as shown by the tensions surrounding responsibility for Tunisian migrants fleeing their country in the wake of the democratic risings in Spring 2011<sup>12</sup>.

### *Militarization and technology as models for IBM strategy*

Looking beyond this particular example of the Frontex Agency and its evaluation we see that the 2008 “Border Package” displays certain marked trends in border control strategy. These trends resurface a little later in the 2009 Stockholm Programme<sup>13</sup> and the 2010 Internal Security Strategy for the European Union<sup>14</sup>. Firstly, the Community approach confirms a trend towards quasi-militarization in external border control. Although there is no talk, as in the United States, of “*prevention through deterrence*”<sup>15</sup>, European Commission policies, the discourse of Member States and the strategy of the Frontex Agency all converge to give the impression of a vigorous policy, requiring exceptional methods, and committed to the “front line” in the struggle against illegal immigration. The lexical field used to describe Frontex coordination activities makes marked use of terms drawn from the world of defence. There is talk of “joint operations”, of a “European Patrol Network” (EPN) and of deploying “Rapid Border Intervention Teams” (the so called RABIT teams)<sup>16</sup>. The use of the term “intelligence” for describing Frontex “risk analysis” missions, instead of more neutral terminology such as “information processing” or “data analysis” should also be highlighted. In a similar vein, the recurrent use of a visual display showing helicopters, planes and ships included in the Centralised Record of Available Technical Equipment (CRATE) is reminiscent of a display showing forces engaged in a military combat. Finally the use of spatial maps and cartographic codes reminiscent of battle plans accentuates a symbolic connection with warfare<sup>17</sup>.

Secondly, the European Union IBM programme emphasised the essential role of new communication and information technologies. Lacking operational resources of its own, the Union chose to go down the road of an “electronic border”, somewhat reminiscent of the North American “*smart border initiative*”<sup>18</sup>. The common factor in the new tools that the European Union proposes implementing is reliance on intensive use of electronic monitoring technologies, IT data exchange networks, and automation of control procedures. This use of

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<sup>12</sup> European Commission, “Commission proposes better management of migration to the EU”, Press release IP/11/532, 4 May 2010; A better management of migration to the EU Press conference on communication on migration Brussels by Cecilia Malmström, Commissioner responsible for Home Affairs, SPEECH/11/310, 4 May 2011.

<sup>13</sup> European Council, *The Stockholm Programme – An Open and Secure Europe Serving and Protecting Citizens*, doc. 17024/09, Brussels, 2 December 2009 and European Commission, *Delivering an area of freedom, security and justice for Europe's citizens. Action Plan Implementing the Stockholm Programme*, COM(2010)171, 20 April 2010.

<sup>14</sup> European Council, *Internal security strategy for the European Union Towards a European security model*, March 2010.

<sup>15</sup> E. Ritaine, “La barrière et le checkpoint ? : mise en politique de l’asymétrie”, *Cultures et Conflits*, n°1, 2009, p. 24.

<sup>16</sup> RABIT resources were first deployed on 25 October 2010 on the border between Greece and Turkey. This deployment followed an aid request from the Greek government when confronted with serious difficulties in controlling its land border with its Turkish neighbour. During the first three months of 2010, no less than 45,000 irregular migrants crossed the Greek border illegally. According to the Agency, in the Orestiada region alone some 350 people were trying to cross the border illegally every day, along a border zone of 12.5 kilometres in length. Frontex, “Frontex deploys Rapid Border Intervention Teams to Greece”, *News Release*, 25 October 2010.

<sup>17</sup> See Frontex, “Frontex Press Pack”, 2010-2011; available on Frontex website at: [http://www.frontex.europa.eu/newsroom/press\\_pack/](http://www.frontex.europa.eu/newsroom/press_pack/).

<sup>18</sup> E. Le Texier, “Mexique/Etats-Unis : de la frontière intelligente au mur intérieur”, *Politique étrangère*, n°4, 2010, pp. 759-762.

so called smart technologies for detecting, identifying and monitoring individuals is the consequence of a desire to adapt to their increasing mobility. The aim is to monitor these individuals and trace their itineraries without interrupting their journeys, at least in cases of movement considered as legitimate<sup>19</sup>. What is being (or attempted at being) constructed is a globalised world in which mobility is fluid but nevertheless perfectly controlled.

Among the three strategic strands identified in the IBM program, two are technology-driven: 1) an enhanced use of new technology for border checks (the SIS II, VIS, entry/exit system and registered traveller programme); 2) an enhanced use of new technology for border surveillance (European Border Surveillance System, EUROSUR)<sup>20</sup>.

Regarding the first (two?) strands, the 2008 Border Package proposes setting up an exit/entry registration system for third country nationals. Inspired by the US-VISIT program<sup>21</sup>, this system should enable electronic registration of information on dates and places of entry of third country nationals and of the dates notified for exit from the Schengen area. It would replace the current system of stamping passports. For third country nationals requiring a short stay visa, this control would eventually be combined with an obligation to provide biometric information for the Visa Information System (VIS). If the period for authorised stay is exceeded, the data of the person in question would be automatically communicated to the relevant authorities. In the same vein, the IBM strategy includes a registered travellers programme (RTP) to facilitate border crossings for frequent, pre-vetted and pre-screened third country travellers. It would make use of new technologies such as automatic border gates, which can provide automated border control for personal and/or biometric data thanks to electronic passports<sup>22</sup>. According to the Commission, The RTP would give the Member States tools to manage their passenger flows efficiently and release the human resources needed at the external border in order to check riskier travellers or serve other travellers<sup>23</sup>. Finally, the Union is examining the possibility of setting up an electronic travel authorisation system – once again inspired by the US Electronic System for Travel Authorization, or ESTA<sup>24</sup>. In the long term, this system could be considered as an alternative to the visa obligation for some categories of non-EU Member Country nationals or could be imposed on those of the latter who are not currently subject to such obligation.

To an even greater extent than the entry/exit system, the second strands of the IBM program, namely the development of the European Border Surveillance System (EUROSUR), is revealing with regard to the trend towards the increasing dominance of technology in border control. The aim of this project is to support the Member States in reaching full situational

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<sup>19</sup> A. Ceyhan, “Les technologies européennes de contrôle de l’immigration. Vers une gestion électronique des ‘personnes à risque’”, *Réseaux*, n°159, 2010, pp. 133-134.

<sup>20</sup> The third strands is an enhanced coordination of Member States through FRONTEX.

<sup>21</sup> US-VISIT (*United States Visitor and Immigrant Status Indicator Technology*) is a United States Department of Homeland Security immigration and border management system. The system involves the collection and analysis of biometric data (fingerprints, etc.), which are checked against a database to track individuals deemed by the United States to be terrorists, criminals, or illegal immigrants. More details available on the DHS website: <http://www.dhs.gov/files/programs/usv.shtm>.

<sup>22</sup> European Commission, “Preparing the next steps in border management in the European Union”, Communication of the Commission, *op. cit.*, pp. 6-7. Such electronic gates are already in operation in several European airports, notably in Finland, in France, and in the UK.

<sup>23</sup> European Commission, “Background information on smart border initiative”, Directorate-General Home Affairs, n.l., n.d., p. 2 ; document available on *Statewatch* website : [www.statewatch.org/news/2011/jul/eu-com-smart%20borders-note.pdf](http://www.statewatch.org/news/2011/jul/eu-com-smart%20borders-note.pdf).

<sup>24</sup> European Commission, “Preparing the next steps in border management in the European Union”, Communication of the Commission, *op. cit.*, p.11.

awareness on the situation at their external borders and to increase the reaction capability of their law enforcement authorities<sup>25</sup>. Based upon the principle of interconnecting already existing monitoring systems in the various Member States, the goal of EUROSUR is to eventually provide a shared technical environment enabling rationalisation of cooperation and communication between the relevant national authorities. The main aim of this “system of systems” is to facilitate use of advanced technology in border monitoring. As in the case of the entry-exit system, the EUROSUR is inspired by the United States *SBInet* programme.

In terms of political aims, EUROSUR is a response to three goals in particular<sup>26</sup>. Firstly, to reduce the number of illegal immigrants who enter the European Union undetected. Secondly, to increase the internal security of the EU as a whole by contributing to the prevention of cross-border crime. Finally, to reduce the number of deaths of illegal immigrants by saving more lives at sea. Although regularly emphasised, the question of saving migrants who find themselves in difficulties really appears to be no more than an accessory to machinery whose main purpose has been thought to be an instrument of migration control.

Whether in the context of the EUROSUR project or other existing arrangements, recourse to technology makes new kinds of walls and barriers socially and politically acceptable. These walls and electronic barriers are less visible and, in appearance at least, less “violent” than their equivalents in concrete and steel<sup>27</sup>. Here again, the American experience can be seen as a model for the European strategy. The argument as put forward in Europe shares certain theses developed across the Atlantic, in particular by the former Democrat Governor of Arizona and the current Secretary of State for Homeland Security Janet Napolitano. In fact, her attack on barriers, summed up in the well-known formula “Show me a 50-foot wall and I’ll show you a 51-foot ladder » should not be understood as a defence of open borders. Her argument is accompanied by an alternative project, that of a barrier at the border between the United States and Mexico which is no longer physical, but virtual:

“Here are some of the key elements of a real border plan: The first is the development of innovative, technology-driven border control between the ports of entry. Boots on the ground definitely help, but we can shore up our border gaps with ground-based sensors, radar, and unmanned aerial vehicles for wide-area intrusive-detection. Any combination of the above will work far better than any 10 or 20 or 50 miles of wall. The Department of Homeland Security is now installing this kind of technology. They need increased funding to sustain their efforts<sup>28</sup>”.

This faith in the potential of new technology, however, ignores its exorbitant cost as well as its relative efficiency. According to an evaluation report by the *Department of Homeland Security*, the American project for a *SBInet* virtual border developed by Boeing<sup>29</sup> has cost the American taxpayer almost a billion dollars for equipping a mere 53 miles of border. It was eventually abandoned in January 2011, the DHS considering that “the *SBInet* program, as

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<sup>25</sup> European Commission, “Examining the creation of a European Border Surveillance System (EUROSUR)”, *op. cit.*, pp. 4-5.

<sup>26</sup> *Ibid.*, pp. 3-4.

<sup>27</sup> Fr. Neisse et A. Novosseloff, “L’expansion des murs : le reflet d’un monde fragmenté ?”, *Politique étrangère*, n°4, 2010, p. 736.

<sup>28</sup> J. Napolitano, “Address to the National Press Club”, 2007.

<sup>29</sup> The abandonment of the project was announced in January 2011 by Janet Napolitano, the very person who had called for it, as a result of its failure to meet “current standards for viability and cost effectiveness”. L. Greenhouse, “Legacy of a Fence”, *The New York Times*, January 22, 2011.

originally proposed, does not meet current standards for viability and cost-effectiveness”<sup>30</sup>.

Despite their failure, current discourse on a technology-driven monitoring of border zones gives sustenance to a narrative: exits and entries from and to the European Union can be completely and efficiently controlled. Therefore such discourse gives support to the idea that it is possible to promote legitimate mobility whilst at the same time effectively preventing mobility thought to be illegitimate, in other words movement by migrants from Southern and Eastern countries in search, whatever the conditions and cost may be, of the chance of a better life in Europe. This progressively drawn distinction between legitimate and illegitimate types of mobility in turn feeds an *insider/outsider* type opposition. The barrier or wall, even if virtual, becomes, in the public imagination, a demarcation between an inside and an outside, between “us” and “them”.

### **Shared borders and political community**

Sustained by an unbreakable faith in the potential of information and communication technology, the European project for integrated border management is only a partial response to the phenomenon of irregular migration. In fact, this approach tends to reduce policy on immigration to no more than a struggle against illegal immigration, a struggle making use of just one strategy, border monitoring. However, the majority of irregular migrants do not reach Schengen territory illegally. According to the European Commission, a high proportion illegal immigrants are “overstayers” that enter the European Union holding a valid travel document. Many only become “illegal” once the document has expired or once they infringe the terms of their stay, for example by carrying out an activity in return for remuneration<sup>31</sup>. By focussing on the border and border control, countries within Europe approach irregular immigration from only one restricted angle. It can be seen from the design of these European arrangements that the machinery is either incomplete or incapable of relative success.

In addition, the experience of Europe in managing migratory flows has shown that the efficiency of arrangements for monitoring at local level has been accompanied by relative failure at a more global level. On the one hand, each reinforcement of border surveillance tends to lead not to a drying up of irregular flows but to smugglers redirecting their attempts towards less intensively monitored routes<sup>32</sup>. On the other hand, although applying electronic monitoring along the entire borders of the Union may be technically feasible, the setting up of a patrol network on the same scale is almost certainly far less feasible, both as a result of financial and political costs that such a decision would entail.

Taking into account these limitations, how can the Union’s focus on securing its external borders be explained? Various possible replies can be given to this question. Many commentators, particularly those associated with the Copenhagen School and Critical Security Studies underline the identity role played by borders. Identifying lines of demarcation and control of these borders is equivalent to a process of “marking out” which is both active and reactive<sup>33</sup>. It enables differentiation of social groups and creates a space in

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<sup>30</sup> Department of Homeland security, “Report on the Assessment of the Secure Border Initiative-Network (SBI<sub>net</sub>) Program”, 14 January 2011.

<sup>31</sup> Communication from the Commission to the Council and the European Parliament on a Common Policy on Illegal Immigration, COM(2001) 672 final, 15 November 2001, p.7.

<sup>32</sup> D. Duez, *L’Union européenne et l’immigration clandestine*, op. cit., pp. 194-198.

<sup>33</sup> D. Bigo, R. Bocco, J.-L. Piermay, “Logiques de marquage : murs et disputes frontalières”, *Cultures et conflits*, n°73, 2009, p. 12.

which tension concerned with protection of identities can be played out. This logic of defending identities – whether it stems from the deliberately provocative approach of Samuel Huntington or from the more subtle approach of the Copenhagen School – nevertheless does not help us to understand the process by which immigration in the context of the European Union is being securitized. Applied to Europe, such an approach assumes that a European identity, threatened by illegal immigration, already exists<sup>34</sup>. However, there is no such identity. There is no such thing as “European society”. Even the most optimistic or those most in favour of Europe would say “Not yet”. In a revealing fashion, the work carried out by Ole Waever is more useful in explaining how national identities resist European integration than the resistance shown by a European identity to apparent dangers generated by migratory flows<sup>35</sup>.

In order to overcome the impasse encountered by analysis of European security in terms of defence of a shared identity, in the second part we shall develop an alternative hypothesis to those suggested by S. Huntington and the supporters of the Copenhagen School. On the basis of a critical interpretation of the work of Carl Schmitt on the friend-enemy distinction, we believe that far from being an expression of an involuntary response to protect identity, Community policy on illegal immigration creates links between Europeans where they did not exist previously or only weakly. From this point of view, this policy is not directed at defending a previously established identity. Rather, it may be performative. It may take an active part in the construction of a sense of belonging and of a symbolic territory that is truly European.

#### *Europe and undocumented migrants: a reactivation of the friend-enemy distinction*

The invocation of an existential menace is, according to Carl Schmitt, constitutive of a sense of belonging. The friend-enemy distinction provides a principle of identification which enables definition of the contours of the body politic<sup>36</sup>. It creates a distinction between “them” and “us” which makes it possible to create or strengthen the links indispensable for the cohesion and survival of a community. If one interprets the policy of the Union towards illegal immigration in terms of Schmitt’s principles, the irregular migrant would represent a figure of alterity contributing to forging a shared “community of Europeans”. It is the presence of a common “enemy” which could help the European Union to develop as a politically and emotionally unified body politic. In posing the question of management and control of European Union external borders, the European policy on illegal immigration would also lay down symbolic and mental borders defining the conditions for belonging to a European political order. The strategy of rejecting undesirable foreigners would then be in response to a double pragmatic and ontological imperative. On the one hand, it would correspond to a managerial logic – often emphasised – of controlling and selecting non-EU Member Country nationals authorised to access the territory of Member States. On the other, it would be a factor in the construction of a figure of Otherness providing a foundation for a collective European identity. We should point out that this identity imperative has been followed by the European Commission at least to a degree. In its communication *Towards Integrated Border Management of the External Border of the European Union* dated 2002,

<sup>34</sup> B. McSweeney, “Identity and Security : Buzan and the Copenhagen School”, *Review of International Studies*, vol. 22, 1996, p. 85.

<sup>35</sup> O. Wæver, “Insécurité, identité : une dialectique sans fin”, in A.-M. Le Gloannec (dir.), *Entre Union et nations : l’État en Europe*, Paris, Presses de Sciences Po, 1998, pp. 91-138 et *id.*, “European Security Identities”, vol. 34, n°1, March 1996, pp. 103-132.

<sup>36</sup> C. Schmitt, *The concept of the political*, Chicago and London, University Press of Chicago, 2007, pp. 25-27.

the latter in effect emphasises that “The European Union’s external borders are also a place where a common security identity is asserted”<sup>37</sup>.

This process of defining a social group by reference to the Other is a classic mechanism<sup>38</sup>. The works of Gérard Noiriel in particular have shown how the “identity revolution” driven by European States during the XIX<sup>th</sup> century allowed a clear distinction to be made between nationals, who benefit from certain privileges, and foreigners, whose movements can be reasonably monitored with the goal of preventing any risk of disorder<sup>39</sup>. By reinforcing the national/non-national distinction, the setting up of administrative and technological arrangements for identifying individuals helped to consolidate the foundations of the nation state. These mechanisms have helped to define its limits ever more precisely at the social and geographic level<sup>40</sup>. More generally, the foreigner has always been the incarnation of the perfect “figure of alterity”<sup>41</sup>. By definition, he or she is a person belonging to a different community. The foreigner is always defined negatively. He or she is a mirror reflecting our own image back to us: and classifying the person as a foreigner fixes, at the same time, the limits of the reference group, since in order to say that he or she is the Other, it is necessary for us to say who “we” are. This dynamic of defining Self and Other is accentuated even more by the fear which the latter generally inspires. For if the foreigner is outside the group, he or she is also a source of disturbance and anxiety. Dutch (*vreemdeling-vreemd*), German (*fremde-fremd*), Spanish (*extranjero-extraño*) and French (*étranger-étrange*) all suggest<sup>42</sup> that the “foreigner” (i.e., stranger) is “strange”. You must beware of him.

The logic of the friend-enemy distinction suggested by Carl Schmitt, however, goes much further than this conventional distinction between *insiders* and *outsiders*. The friend-enemy distinction is the “most intense and extreme antagonism”<sup>43</sup>. It presupposes the possibility of a physical struggle that could even undermine the survival of a political entity. It is the radical nature of the friend-enemy distinction that can provide political authority with enormous capacity for mobilisation. The strength of political enmity can help disguise all other divisions in the social body, whether they are cultural, moral, religious, aesthetic or even economic. By feeding hopes for an existential combat against a shared adversary, it is a powerful factor in unifying a community.

In this struggle for survival, the border marks out in spatial terms the line of demarcation between friends and enemies. The frontier (in other words, the border) becomes once again the “front” to which it is etymologically related. It draws a line that marks both a geographical and legal distinction constructed by political authority<sup>44</sup>. The border appears in particular as

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<sup>37</sup> *Towards Integrated Border Management of the External Border of the European Union*, Communication of the Commission to the Council and the European Parliament, COM (2002) 233 final, 7 May 2002, p. 5.

<sup>38</sup> For an interdisciplinary approach of the question of the Other: B. Badie, M. Sadoun (dir.), *L’Autre. Études réunies pour Alfred Grosser*, Paris, Presses de science Po, 1996, 318 p.

<sup>39</sup> G. Noiriel, *État, nation et immigration. Vers une histoire du pouvoir*, Paris, Gallimard, 2001, pp. 448 et ss., *Id.*, *Réfugiés et sans-papiers. La République face au droit d’asile. XIX<sup>e</sup>-XX<sup>e</sup> siècle*, Paris, Hachette, 1998, pp. 155-180 et J. Torpey, *L’invention du passeport. États, citoyenneté et surveillance*, Belin, Paris, 2000, 255 p.

<sup>40</sup> D. Schnapper, “La nation et l’étranger”, *Revue internationale de philosophie politique*, n°3, juin 1993, pp. 89-96.

<sup>41</sup> D. Lochak, *Étranger : de quel droit ?*, Paris, Presses Universitaires de France, 1985, p. 14; F. Fisbach, “L’Autre et l’Étranger : les enjeux de la reconnaissance et les stratégies de l’exclusion”, *Revue internationale de philosophie politique*, n°3, juin 1993, pp. 65-88.

<sup>42</sup> J.Y. Carlier, “L’étranger : de l’ennemi au citoyen”, *Les cahiers internationaux de symbolisme*, n°101-102-103, 2002, p. 151.

<sup>43</sup> C. Schmitt, *The concept of the political*, Chicago and London, University Press of Chicago, 2007, p. 29.

<sup>44</sup> M. Foucher, *Fronts et frontières : un tour du monde géopolitique*, Paris, Fayard, 1991, 691 p.

the territory in which order from within is confronted by the threat of disorder from without. But, even more crucially, disorder from without can be a condition of order within. According to Étienne Balibar, the border in Carl Schmitt's thinking is both a geographical and an ethical limit:

"The border is above all a place in which the controls provided by the "normal" legal order are suspended [...], the place in which the "monopoly on legitimate violence" takes the form of preventive counter-violence. The *nomos* of the planet is no more than "border-order": violence which is expected to domesticate violence by placing it at the service of reasons of state"<sup>45</sup>.

This concept of the border as a violent territory and as a space beyond the reach of the normal legal order is a reflection of the human experience of how borders have actually been managed in Europe. The reinforcement of migratory controls at borders and the definition of a specific European territory are not in fact without consequences. These factors make access to the territories of Member States ever more difficult. In fact, they indirectly contribute to the deaths of several hundreds of irregular migrants every year, mainly when ships hired by gangs of "people smugglers" get into difficulty in the Mediterranean and in the Atlantic. They also lead to frequent human rights violations, in particular violations of the non-refoulement principle<sup>46</sup>. Finally, they encourage growing frustration amongst populations of some non-member countries with a Europe thought to be selfish and even hostile.

However, the sense of urgency and the social preoccupations that facilitate the European machinery at the origin of such human rights violations are exacerbated by continually increasing pressure from the media and politicians. One of the discourse registers most frequently used to evoke illegal immigration is in fact one of combat. The events occurring close to the Spanish enclaves of Ceuta and Melilla, in autumn 2005, were presented as "conflicts" resulting from "massive assaults" led by an "army of illegal immigrants"<sup>47</sup>. The arrival of migrants on the coasts of Italy, Malta, Cyprus, or, some years' ago, on the Canary Islands, are regularly compared to "invasions" or "landings". These landings are said to be the results of "waves" of migrants. Beyond these terms of discourse, it is the very nature of the European response to the phenomenon of illegal immigration that tends to reinforce the narrative of a struggle between Europeans and illegal migrants. Contrary to political declarations, EU immigration policy does not assign much importance to prevention strategies, development aid or even to opening legal avenues for economic immigration. On the contrary: it strengthens security arrangements: securisation of travel documents, development of data bases and information exchange systems, deployment of tools for border monitoring, and even, as we have seen, the quasi militarization of the combat against illegal immigrants as part of joint maritime operations led by the Frontex Agency in the Mediterranean<sup>48</sup>.

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<sup>45</sup> E. Balibar, "Prolégomènes à la souveraineté : la frontière, l'État, le peuple", *Les Temps Modernes*, n°61, septembre-novembre 2000, p. 56 (translation by the author).

<sup>46</sup> G. S. Goodwin-Gill, "The Right to Seek Asylum: Interception at Sea and the Principle of *Non-Refoulement*", Fondation Philippe Wiener – Maurice Anspach, Chaire W. J. Ganshof van der Meersch Inaugural Lecture given at the Palais des Académies, Bruxelles, 16 February 2011.

<sup>47</sup> The press has used and abused such metaphors. As an example, an article published on the *Le Monde* web site in October 2005 talks repeatedly of "attempts at massive infiltration", "massive assaults", and "coordinated assaults". These terms appear seven times in an article of barely 15 sentences. "350 immigrants se sont infiltrés dans l'enclave de Melilla, lors d'un nouvel assaut groupé", *loc. cit.*

<sup>48</sup> P. Coda, Patrizia, "L'Agence européenne pour la gestion de la coopération opérationnelle aux frontières extérieures des États membres de l'Union européenne", *Revue du Marché commun et de l'Union européenne*, n°489, juin 2005, pp. 385-387.

There is a trend for this militarization of the struggle against irregular migrants to create in collective representations the idea of combat and of a specific conceptual framework, that of war. Just as, since the attacks of 11 September 2001 there has been a “war” against terrorism<sup>49</sup>, so there is also now a war to be waged against “floods” of irregular migrants. The latter are not stigmatised as individuals, but are presented collectively as a peril for European societies. This war, however, is not war as envisaged by Clausewitz, in other words, as a military confrontation. It is a “metaphorical war”. To use an expression taken from Ole Wæver, it is “*a test of will and strength*” in which a political entity resists a danger in order to impose recognition of its existence and identity<sup>50</sup>.

An examination of the European policy of combating illegal immigration in the light of the friend-enemy distinction therefore makes it possible to perceive the formation of the body politic as a discursive practice resulting from the actions of a political authority. Applied to the case under discussion, this idea can help us to conceptualise the formation of a European body politic independently of any reference to a pre-existing community. In addition, this idea can be separated from perspectives putting an emphasis upon a will to live together based upon adhesion to ethical or political principles. In the work of Schmitt, the figure of the enemy does not correspond to any predefined social group, whether based on biology, culture, ethnicity or religion. The enemy is essentially political. Consequently, such an enemy is not necessarily bad morally or ugly aesthetically. It is simply that “the political enemy need not to be morally evil or aesthetically ugly; he need not appear as an economic competitor, and it may even be advantageous to engage with him in business transactions. But he is, nevertheless, the other, the stranger; it is sufficient for his nature that he is, in a specially intense way, existentially something different and alien, so that in the extreme case conflicts with him are possible. These can be neither be decided by a previously determined general norm nor by the judgement of a disinterested and therefore neutral third party<sup>51</sup>”. In short, the alterity of this Other does not stem from characteristics proper to it. It is the Other because it has been named as such by an authority which, in doing so, creates itself.

The relevance of Carl Schmitt’s work therefore lies in the fact that he proposes an exclusively political definition of the community. This definition is particularly relevant to the case of the “European political model” in which the meaning of Europe is translated into legal principles and institutional mechanisms, and never into ethno-cultural givens or value choices<sup>52</sup>. Schmitt does not explain the formation and legitimization of political authority by reference to a cultural conception of the community. His position is at the other end of the spectrum from the “essentialist” conception of the nation, constructed on the basis of the theses of Johann Gottfried Herder, Johann Gottlieb Fichte or Théodore Mommsen. For Schmitt, the community is not founded on language, history, geography or culture<sup>53</sup>. Nor does it resemble the “volontarist” conception, stemming from the French Revolution and developed by Ernest Renan. Although the political community genuinely results from a “decision”, it does not follow that it is the result of a regular act of commitment on the part of free and enlightened citizens. Schmitt’s political community is not, in Renan’s words, “a plebiscite renewed every

<sup>49</sup> See O. Corten, “La ‘guerre antiterroriste’, un discours de pouvoir”, *Contradictions*, n°105, 2004, pp. 3-13.

<sup>50</sup> O. Wæver, “Securitization and Desecuritization”, in R. Lipschutz (ed), *op. cit.*, p. 53.

<sup>51</sup> C. Schmitt, *The concept of the political*, Chicago and London, University Press of Chicago, 2007, p. 27.

<sup>52</sup> S. Heine, P. Magnette, “Europe, les identités troubles”, *Politique étrangère*, n°3, 2007.

<sup>53</sup> J.G. Herder, *Idées sur la philosophie de l’histoire de l’humanité*, Paris, Aubier, 1962 ; J.G. Fichte, *Discours à la nation allemande*, Paris, Imprimerie Nationale, 1992 et Th. Mommsen, *Histoire romaine*, Paris, Laffont, 1985.

day”<sup>54</sup>. It is not founded on positive values. It is built upon and is consolidated *in opposition* to another community. It is essentially an entity for defence, even survival<sup>55</sup>.

Carl Schmitt’s thinking is marked by the historical context in which it arose. It was developed in the troubled period between the wars with the aim of justifying a new kind of State destined to replace the weakened Weimar Republic<sup>56</sup>. Carl Schmitt, then, attempts to formalise the conditions for legitimising an authoritarian power. Clearly, the Member States of the European Union are not authoritarian regimes. Moreover, the figure of the enemy implies reference to an organised social group. The friend-enemy distinction is an opposition between entities of the same type<sup>57</sup>. Irregular migrants do not represent an organised political force conscious of its own existence. Clearly, Schmitt’s thinking cannot be considered as a theoretical model for European integration and its project for management of its external borders. Its interest lies elsewhere. Above all, it is heuristic. The German jurist’s thinking can provide an analytical grid for interpreting the processes by which the body politic is formed, independently of any reference to identity or ethics. What seems decisive in Schmitt’s interpretation is not the question of war but the question of the place assigned to the otherness and to the border as demarcation line. Equally important is the possibility it opens of adapting certain historically distant categories to contemporary politics. For behind the friend-enemy distinction, we can in fact discern the political anthropology of Thomas Hobbes and the universal and atemporal scope of his theories<sup>58</sup>. The friend-enemy distinction as a motor for political unity has in fact no meaning other than in relation to the fundamental human characteristics of fear of danger and the desire to free oneself of it.

### *Fear of the other or policy of fear?*

Underlining the role of fear, or at least of uncertainty, in the formation of the European social body inevitably leads us to question ourselves on the political use to which it can be put. In other words, is European policy against illegal immigration an example of a policy exploiting fear which has been deliberately undertaken by the European political elites? Is the branding of the disquieting figure of the irregular migrant a result of a deliberate effort to create sentiments of fear in the public, in order to encourage the formation of a community to which people feel they belong?

Suggestions that there is a strategic intention by politicians to exploit insecurity are frequent. From Albert Hirschman to Zygmunt Bauman, and from Giorgio Agamben to Michel Foucault, several writers have seen a technique of government in policies for (in)security. For example, Murray Edelman emphasises that:

“when the enemy can be seen to be objectively harmful, there is a powerful tendency to eliminate it in order to suppress the threat; but an opposite tendency comes into play when the enemy is an aggregate of groups behind a regime or a cause; in this case, those who are

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<sup>54</sup> E. Renan, “What is a Nation?”, conference delivered at the Sorbonne (Paris), 11 March 1882.

<sup>55</sup> On this point, Carl Schmitt’s ideas and those of Norbert Elias are to some extent similar. The “law of monopoly” proposed by Elias leads to the formation of “offensive and defensive survival units” which do not necessarily reflect clear social identities. N. Elias, “La transformation de l’équilibre ‘nous-je’”, in N. Elias, *La société des individus*, Paris, Fayard, 1997, p. 274.

<sup>56</sup> J. Hummel, *Carl Schmitt. L’irréductible réalité du politique*, Paris, Michalon, 2005, pp. 51-75.

<sup>57</sup> R. Barker, *Making Enemies*, Basingstoke, Palgrave Macmillan, 2007, pp. 25-28.

<sup>58</sup> See D. Duez, “L’Europe et les clandestins : la peur de l’Autre comme facteur d’intégration ?”, *op. cit.*

constructing the figure of the enemy have every reason to perpetuate and exaggerate the danger it represents”<sup>59</sup>.

A rapid overview of contemporary history leads us to believe that such theories cannot simply be brushed aside. Nevertheless, it seems that such analyses do not fit very easily with the case of the European policy against illegal immigration. Often guided by hostility in principle to political authority, these approaches, when applied to processes of European integration, generally overestimate the ability of Member States to agree to a coherent plan. It is true that the 1999 Tampere Scoreboard, the 2004 Hague Programme and various other specific plans have sketched out a path for a common policy on illegal immigration and management of external borders, but the application of these policies is never carried out in a consistent way. Progress has been made in a disorderly, even unwilling, manner<sup>60</sup>. Steps taken have often been carried out under pressure from day to day events, not following a precise plan. Securitization of travel documents and development of information exchange systems are a heritage of cooperation under the Schengen Agreement. Recent strengthening of these elements can be explained largely by the political dynamic created by the 11 September attacks and by pressure exerted by the United States on European States<sup>61</sup>. Deepening cooperation in the field of trafficking and exploitation of human beings can be seen as occurring in an environment marked by random cases highlighting such problems. We need only think of the case in which fifty-eight irregular Chinese migrants were found dead in the port of Dover in June 2002. Finally, the setting up of the Frontex Agency can be seen as being related to anxieties linked to the enlargement process of the Union to Eastern Europe and the development of a humanitarian crisis on Europe’s Southern borders.

More prosaically, European cooperation in the field of illegal immigration is closely linked to a logic of political opportunism. There is no European project for securitizing immigration which could have been defined in advance and then applied. Rather, national strategies have come together in a fairly haphazard manner and have led to political agreements on specific matters, the final nature of such agreements often being in response to the difficulties experienced in European negotiations. The upgrading in importance of the question of illegal immigration, firstly at the European Council, and later, in the Council of Ministers, has taken place following the “principle” of the highest common denominator. In contrast with the image of the terrorist, which is much more polemical than appears at first sight, there is a high degree of consensus on the issue of irregular migration. It is relatively vague and anonymous, whilst at the same time being fairly evocative. It is a symbol of otherness which can give tangible support to the uncertainties and fears of the majority of Europeans. These fears are not necessarily related to the same realities in different countries in the Union. In some cases, it is fear of the irregular working migrant who threatens jobs. In others, the concern is rather with the “ethnic” criminal, terrorist or “foreign exploiter” who abuses European social welfare systems<sup>62</sup>. Each Member State, and within each Member State, each social group, can provide the irregular migrant with a face adapted to its own preoccupations. In all cases, the

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<sup>59</sup> M. Edelman, *Pièces et règles du jeu politique*, Paris, Seuil, 1991, p. 130.

<sup>60</sup> This unwillingness was also in evidence from the European Parliament in the name of defending the individual rights of European citizens and protecting human rights of migrants, as well as from certain Member States who saw the measures as infringing their sovereignty. J. Lodge, “EU Homeland Security: Citizens or Suspects?”, *European Integration*, vol. 26, n°3, September 2004, p. 254 et J. Apap, S. Carrera, “Maintaining Security Within Borders : Toward a Permanent State of Emergency in the EU?”, *Alternatives*, vol. 29, n°4, August-October 2004, pp. 399-416.

<sup>61</sup> J. Lodge, “EU Homeland Security: Citizens or Suspects?”, *loc. cit.*, pp. 267-272.

<sup>62</sup> J. Huysmans, *The politics of Insecurity. Fear Migration and Asylum in the EU*, London and New York, Routledge 2006.

polymorphous image of the irregular migrant encourages Europeans to unite around a political project defined in negative terms: the protection of acquired privileges and rights, and the preservation, not of a single European identity, but of European identities, in the plural. The manipulability, not to say the lack of definition, in the image of *the Other* appears here as an advantage. It enables Member States to agree on a common European project, politically exploitable at the national level and meaningful for the majority of Europeans.

Following a mechanism reminiscent of the “self-fulfilling prophecies” discussed by Robert Merton<sup>63</sup>, this concentration on illegal migratory flows reinforces stereotypes and negative social representations. An increasingly closer link is drawn between irregular migrants and security issues. Far from calming social anxieties over migratory phenomena, the arrangements made for dealing with illegal immigration contribute to the tendency for illegal immigration to be dramatised in the media. They nourish new fears calling for new security measures<sup>64</sup>. As so often, once the dynamics of an increasing sense of insecurity are unleashed, the latter discovers in its own development the very conditions of its reproduction. *Rapprochement* between Europeans therefore grows stronger as anxieties increase.

## Conclusion

A product of the violent rifts between European countries in the XX<sup>th</sup> century, Europe was consciously constructed in response to the risk of a hobbesian “war of all against all” (*bellum omnium contra omnes*). In the context of the cold war, it became a “survival unit” – in the words of N. Elias – in resistance to the threat from the Soviet Union. Fear is therefore at the heart of the European project, and was so from the beginning. Is that equivalent to saying that it is fear that has constructed Europe, and that fear is the foundation of European identity? Certainly not. Nevertheless, it contributed to it and continues to contribute to it. Committed since the beginning of the 1990s to a common internal security policy, the European Union has over the last few years developed its own security narrative in which the image of the border has come to play a central role. The Union has begun to identify and point out dangers confronting it. It has constructed a coherent discourse concerning the threats weighing on it. In this context, European discourse on the management of external borders has become a “unifying discourse” between Europeans. More consensual than the discourse on terrorism or drug trafficking, and politically more useful than organised transnational crime, the discourse on illegal immigration is received favourably by the populations of all the Member States. These discourses are liable to evoke the most universal experience of all, that of fear of otherness.

Whether deliberately or otherwise, IBM strategy feeds the syndrome of a “besieged citadel”. That does not imply that Europe has become “Fortress Europe”, even if that is sometimes claimed to be the case. It simply means that all the material, normative and discursive resources mobilised as part of external border management helps to create an image of a Europe confronted by the danger of illegal immigration. The migrant is not perceived as belligerent or openly hostile. But none the less he represents a threat to the security and well-being of Europeans. In developing this figure of alterity, in encouraging it to become anchored in collective representations, the Union is providing itself with a powerful instrument for integration and unification. But building a political community on the

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<sup>63</sup> R. Merton, *Éléments de théorie et de méthode sociologique*, Paris, Armand Colin, 1998.

<sup>64</sup> J. Huysmans, “Migrants as a Security Problem: Dangers of ‘Securitizing’ Societal Issues”, in R. Miles, D. Thranhardt (eds), *Migration and European Integration : The Dynamics of Inclusion and Exclusion*, London, Pinter, 1995, p. 64.

dynamics of a definition of *Self* and *the Other* necessarily implies that symbolic and material borders be constructed. In that case, integration is achieved at the cost of rejecting the outsider. From that moment onwards, Europe, by discovering its *Other*, may discover its *demos*. However, is that really the true essence of the European project?