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Did 9/11 matter?

Securitization of asylum and immigration in
the European Union in the period from
1992 to 2008

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1 Introduction

As the Twin Towers crumbled, a day in history was being marked, and it was later said the world would never be the same as it was before the terror attacks of 9/11. The prototypical security event was immediately politicized as an exceptional and global threat to the United States (US) and the Western World, giving rise to sweeping political moves, policy-making, exceptional legislation, and military action (Huysmans 2006: 5). The French newspaper *Le Monde* spoke for many Europeans when it proclaimed on its cover 'We are all Americans', in response to the attacks. The identification with the US as well as the perceived threat meant the European Union (EU) internalized the impact of 9/11 even before the Madrid bombings of March 2004 and those of London of July 2005.

The image of the perpetrator, foreign to the society and culture of Western democracy, yet able to access and affect it, unleashed forces that had the potential to have a profound effect on the way asylum and immigration were perceived and dealt with (Blake 2003: 425).

Whether a new security agenda emerged which translated into a new asylum and immigration paradigm in the EU has since been debated. One camp maintains that the attacks of 9/11 had a far-reaching impact on the way the EU would shape its migration policies (Baldaccini 2008: 31); that the nexus between migration and asylum policy on the one hand and security concerns on the other hand became more prominent (Brouwer 2003; den Boer and Monar 2002; Guild 2003 quoted in Huysmans 2006: 1), and that 'an important connection exists between the war on terror and the mounting challenge to asylum since the events of 9/11' (Crisp 2003: 9). The other camp challenges this view and suggests that '9/11 has by no means created a new security agenda' (Bigo 2005: 72); that the security framing of asylum and immigration policies adopted thereafter followed the pattern of anti-immigrant rhetoric and linkage with crime and terrorism, which had developed from the 1980s onwards (Bigo 2005: 72; Huysmans 2006: 1) and that 9/11 did not result in greater securitization of asylum and immigration (Boswell 2007). However, there has been little systematic or rigorous analysis to decide between these competing claims.

Examination of developments in this area since the late 1960s supports the view that securitization of asylum and immigration in the EU predated the events of 9/11. From the 1970s onwards, economic recession, uncomfortable social changes and other sources of difficulty interplayed with large-scale immigration (Heisler and Layton-Henry 1993: 157), triggering concerns of societal, economic and political security. The perceived security deficit stemming from the abolition of internal border checks brought external border control to the heart of European political and bureaucratic practice (Huysmans 2006: 95), border control technologies being not merely instruments implementing an already framed policy, but instead constitutive of how free movement could be exercised (Huysmans 2006: 92). The linkage of asylum and immigration with organized crime and terrorism in an increasingly institutionalized security continuum was cemented by the

intergovernmental fora of ‘securocrats’. Exogenous political, economic and societal developments as well as endogenous issues of trust played a part in the shaping of a new security agenda, which further bound the migration–asylum–security nexus. The intention to reduce the numbers of asylum-seekers was reflected in the restrictive entry regulations, the system of re-distribution, the weakness of the responsibility rule, and the lack of reference to relevant human rights provisions (particularly the norm of non-refoulement (Lavenex 2001: 98)); and the use of technological fixes was initiated to facilitate the implementation of migration management tools. Thus, even before the adoption of the Maastricht Treaty, which brought asylum and immigration into the newly established three-pillar structure of the European Union, securitization had already developed its own momentum.

Yet, two questions remain unanswered. Firstly, did 9/11 actually matter for securitization? This question calls for careful unpacking as securitization can and does take place at various stages and degrees and, while it did not begin with the terror attacks, it is conceivable that 9/11 escalated the pre-existing trend and transformed it in a meaningful way. Secondly, if it is concluded that 9/11 mattered, it is important to identify how; whether these were qualitative or quantitative changes, what areas they affected most and in what ways. The value of the regional level of analysis, adopted by this research, lies in that the EU is no longer a security complex with many centres – the transformed meaning of sovereignty has rendered it a supranational centre itself, instrumental to asylum and immigration issues. That the ‘management’ of these matters is intrinsically linked to the functional integrity and unity of the EU both as a constitutive element and a challenging test makes analysis all the more compelling and significant.

This working paper aims at providing answers to both questions. It offers a detailed analysis of the effect of 9/11 on securitization of asylum and immigration in the EU from 1992 to 2008 at the supranational level and sets forth two main claims. Firstly, it argues that 9/11 did matter for it reinforced the securitization of asylum and immigration. Secondly, it contends that the escalated securitization manifested both qualitative and quantitative change. Quantitative change is found in the political discourse, in the output of asylum and immigration related policies and legislation, in the progressive tightening of borders, and multiplication of technological fixes and surveillance mechanisms.

Qualitative change is identified in the reduction of the scope of questions surrounding the development of the Area of Freedom, Security and Justice (Bigo 2008: 91), in the establishment of a permanent state of emergency, in the quality of the protection of asylum-seekers, in the use of and access to the technological fixes, in the highly politicized role of immigration in the foreign policies of the EU, in the heavily restricted legal entry options and the new salience of the fight against illegal immigration, which has resulted in the creation of a ‘de facto “illegal asylum-seeker”’ (Morrison and Crosland 2000 quoted in Geddes 2008: 131). The research acknowledges that several of the ideas implemented after 9/11 predated the attacks on the Twin Towers and the subsequent political framing of asylum and immigration (Bigo 2002; Guiraudon 2003 as quoted in Huysmans 2006: 8). It is contended, however, that 9/11 provided for new forms of re-conceptualization of

asylum and immigration as security threats, legitimizing adoption and use of approaches that had previously been only debated upon, and that the terror attacks were instrumental in strengthening the hold of the control state and subordination of freedom and justice to the concept of security (Bigo 2006: 41).

The contribution of this research is thus both empirical and theoretical. On an empirical level, it is threefold. Firstly, the working paper systematically explores the assumption that 9/11 changed asylum and immigration policies, by asking whether this was the case. Secondly, it offers an interpretation of how asylum and migration in the EU have been securitized, thus contributing to a better understanding of the process of securitization. Thirdly, given its regional focus, it aids the understanding of the process of progressive integration and supranationalization of asylum and immigration policies within the EU. On a theoretical level, the working paper develops a clear and simplified conceptual framework through which the concept of securitization can be operationalised and empirically explored.

The working paper is structured in five parts. After the introduction, Chapter 2 sketches the theoretical and conceptual framework of the paper, setting the background for the analysis to follow. Chapter 3 examines securitization of asylum and immigration in the period from 1992 to 11 September 2001 in three areas: (1) political, policy-making and legislative; (2) technological solutions; and (3) institutional, administrative and operational practices and set-ups. The year 1992 is chosen as a reference point, because the Maastricht Treaty, concluded that year, brought asylum and immigration matters officially into the remit of the EU. Analysis of securitization of asylum and immigration in the same three fields from 9/11 to the end of 2008 is presented in Chapter 4. Year 2008 demarcates the end of the time-span of the analysis, because it provides for a more substantial amount of material for examination of processes and change; this is especially relevant for the EU level of analysis, where developments are often slow to emerge. Subsequently, the Conclusion reiterates the proposition that 9/11 affected securitization of asylum and immigration in the EU and summarizes key findings on how the escalated securitization manifested.

2 Theoretical and conceptual framework

This chapter sets up the theoretical and conceptual framework of the working paper. It explains the concept of securitization and demonstrates how it applies to the specific empirical context of asylum and immigration policies in the EU. It operationalizes the securitization paradigm and establishes criteria against which developments in asylum and immigration matters will be analysed and judged.

The securitization concept

The securitization paradigm, first developed by the so-called Copenhagen School, constitutes the theoretical backbone of this research. Going beyond the traditional narrowly defined and state-centric understandings of security as relating to a military threat to the state, the Copenhagen School extended the definition of security 'horizontally' to include political, economic, environmental, military and societal security and 'vertically' to include referent objects such as the individual and the groups (Wæver 2004: 9). According to the framework of the Copenhagen School, securitization – in any sector and in relation to any given referent object - is based on the premise that security issues are constructed through securitizing moves whereby an actor represents – through a speech act - an object as constituting an existential threat to the survival of a given referent object. Given the legitimating power of 'security', the designation of a given object as such an existential threat legitimates extraordinary measures, such as exceptions to regular standards of political rules, respect for human rights and international treaty obligations, as appropriate means to handle the special threat. When they are accepted as such by the audience, the act of securitization is complete. Thus, security is the move that takes politics beyond the established rules of the game and frames the issue either as a special kind of politics or as above politics (Buzan et al 1998: 21, 24-25). The basic premise, and most important characteristic, of the Copenhagen School's approach therefore is that nothing constitutes a security issue a priori; instead, labelling something a security matter is a choice (Sterkx 2003: 15) and it always requires the issue to be 'written and talked into existence' (Huysmans 2006: 7). The Copenhagen School thus marked the onset of the 'linguistic turn' (Huysmans 2006: 91), whereby language was seen as constitutive of social relations and of the meanings given (Huysmans 2006: 7).

For the Copenhagen School, the intrinsic nature of a given object is unimportant; what matters is the way it is represented through speech (Wæver 2004: 9). However, given that the focus of this working paper is on the political, legislative and technical implications resulting from such speech acts, a purely discursive approach is argued to be insufficient for understanding how the discourses are themselves embedded in wider social practices and political processes (Huysmans 2006: 91). As Jef Huysmans and Didier Bigo highlight, the work of the Copenhagen School can be complemented by drawing upon the so-called Paris School approach to securitization, which may be better suited to analysing asylum and immigration matters.

Building on the concepts of the Copenhagen School, the Paris School moves beyond the emphasis on language and discourse and includes deviation from official policy by being more oriented towards the practices of agencies (Wæver 2004: 11). This approach conceives that securitization of immigration emerges not solely from successful speech acts of politicians, but also from a range of administrative practices such as population profiling, risk assessment, statistical calculation, category creation, proactive preparation and the mobilization and habitus of security professionals (Bigo 2002), which exert crucial influence over the formation of insecurity domains. Understanding the centrality of 'technology and expert knowledge to the formation of modern society and its governance of social conduct' takes the analysis beyond the discourse in a particular

historical time to the technologies of government that determine how free movement in Europe is governed (Huysmans 2006: 9, 10, 93). Besides, the Paris approach illuminates how internal and external security converge to form two sides of the same coin as security agencies compete for the gradually de-territorialized tasks of traditional police, military and customs, and demonstrates how these agents jointly produce a new threat image by linking immigration, organized crime and terror (Wæver 2004: 11).

Methodology and operationalization of the securitization concept

Drawing upon the Copenhagen School's emphasis on political speech acts and the Paris School's emphasis on administrative practice and technological responses, analysis of securitization of asylum and immigration in the EU in this working paper will be done in line with the premise that asylum and immigration may, but do not necessarily have to be asserted as a threat or explicitly defined as such to be securitized. Besides speech acts in discourse, securitization may manifest in the way an issue is framed and implemented in working routines, administrative instruments, institutional set-ups emphasizing policing and defence (Huysmans 2006: 3, 4), technological solutions and statistical conceptualization of migration (Bigo 2002). Furthermore, institutionalized securitization portrays the securitized issues as natural, normal ways of reasoning (Hajer 2005 as quoted in van Dijck 2006: 4), no longer requiring new securitizing moves. Therefore, analysis will have to be attentive to signs that suggest the state of emergency may be embedded in political and institutional domains that conceive migration as a managerial problem requiring a simple control fix (Van Dijck 2006: 5).

Identification of core signifiers of securitization thus requires an analysis of the domains they are expected to be found in. Hence, three areas have been selected as constituting the operational framework of this research:

1. Politics, policy-making and legislation,
2. Technological solutions and
3. Institutional, administrative and operational set-ups and practices.

Examination of the three domains will cover analysis of discourse, selected policy documents, legislation as well as academic literature with the aim of establishing both qualitative and quantitative characteristics of securitization in the demarcated periods of time. The exploration of primary sources will be emphasized, with secondary sources providing mainly theoretical support. An attempt will be made to account for all legislation relevant to asylum and immigration in the EU within the given periods of time, whereas among the vast number of policy documents, only the most relevant and seminal will be looked at. Discursive analysis will in turn focus on the conclusions of meetings of the European Council and the Justice and Home Affairs (JHA) Council of the EU for two reasons. Firstly, these largely intergovernmental bodies are inherently political and therefore well-suited for examination of developments in the political domain. Secondly, even within the integration and supranationalization processes, they have retained their dominant role in defining the asylum and immigration policies of the EU. The analysis will also draw on the author's knowledge and personal experience from working for the European Commission and Frontex.

The nature of change will be characterized as either quantitative or qualitative. For the purpose of this research, quantitative change denotes an increase or decrease in the output on a certain phenomenon – e.g., more frequent linkage of migration and security or a higher number of drafted policy documents and adopted legislation. Qualitative change in turn points at the transformed meaning and implications of the phenomenon – e.g., revised substance of the provisions of the policy documents and legislation and novel linkage of issues.

The following Chapters 3 and 4 will explore the developments in asylum and immigration in the EU from 1992 to 2008. The importance of 9/11 will be demonstrated and core identifiers of securitization analysed.

3 Asylum and immigration in the EU from 1992 to 11 September 2001

This chapter will offer an insight into the securitization of asylum and immigration in the EU in the period from 1992 to 11 September 2001. The objective of the analysis is to identify the signifiers of the securitization predating the events of 9/11 in the three established areas: (1) politics, policy-making and legislation, (2) technological solutions and (3) institutional, administrative and operational practices and set-ups. Those will subsequently be juxtaposed against respective signifiers of the period after 9/11 in an attempt to tease out the effect of these events on the way asylum and immigration in the EU are framed. Each subsection will begin with a brief summary of key developments predating 1992 to contextualize the subsequent analysis.

Politics, policy-making and legislation

Four highly relevant pieces of legislation related to asylum and immigration were passed before 1992. One of them – the Single European Act (SEA), signed in 1986 – was adopted within the remit of the EC. It aimed at bringing about the single market envisaged in the EEC Treaty of 1957 through abolition of all controls among the Member States (MS) on the movement of goods, persons, services and capital, thus establishing an area without internal frontiers after a transitional period ending on 31 December 1992 (SEA 1986, Art. 13). Although the single market had direct relevance for asylum and immigration matters, supranationalization of the respective policies was rebuffed and no provisions for refugees, asylum, visas and the status of the Third Country Nationals (TCNs), proposed by the European Commission (Geddes 2008: 71), were included in the SEA. Cooperation on the entry, movement and residence of TCNs was to continue to take place in intergovernmental fora (Geddes 2008: 75).

Intergovernmental collaboration produced three other relevant documents, which were signed outside the scope of EC law. These were the Schengen Agreement of 1985, the Convention Implementing the Schengen Agreement (CISA) and the Convention

Determining the State Responsible for Examining Applications for Asylum Lodged in One of the Member States of the European Communities (the Dublin Convention) of 1990. The Schengen Agreement was initially signed among the Benelux countries, West Germany and France on abolition of internal border controls among the signatories and constituted a so-called 'laboratory experiment' in the area. It focused on flanking measures such as escalated external border controls and cooperation in JHA matters, deemed necessary by the perceived security deficit stemming from the abolition of internal border checks. The CISA, unlike the first Schengen Agreement, expressly linked immigration and asylum with terrorism, transnational crime and border control (Huysmans 2000: 756) and laid down detailed provisions on the fight against illegal immigration, the intake of asylum-seekers as well as allocation of responsibility for them (CISA 1990; Guild 2006a: 636; Lavenex 2001: 95). It amplified the asylum-migration nexus by setting forth provisions that applied to both groups indiscriminately – strict visa requirements, cooperation in visa matters, expulsion and readmission, and imposition of carrier penalties (CISA 1990; Lavenex 2001: 96, 100).

The Dublin Convention supplemented the CISA and dealt specifically with the distribution of responsibility for asylum-seekers who had managed to enter the territories of the signatories. Its provisions constituted a significant departure from the universal responsibility of protection enshrined in the Convention relating to the Status of Refugees of 1951 (the Geneva Convention) and its Protocol (Lavenex 2001: 96) and pointed at the underlying dynamic behind the intergovernmental cooperation: an objective of reducing the number of asylum applications, tightening the external borders and reducing entry options (Lavenex 2001: 97). These developments demonstrate that already by 1992, the momentum of securitization of asylum and immigration had been set.

In 1992, the Treaty on European Union or Maastricht Treaty as it is commonly referred to, brought asylum and immigration affairs into the remit of the newly established European Union. In the three-pillar structure, the first was the European Community pillar, designated for communitarized matters, while the other two pillars were intergovernmental, one dealing with the Common Foreign and Security Policy and the other with Justice and Home Affairs. Two developments brought about by the Maastricht Treaty signified securitization of asylum and immigration. Firstly, it failed to provide any meaningful supranationalization and judicial oversight in asylum and immigration matters. Secondly, asylum and immigration were clearly pooled with illegal immigration, fraud, organized crime and police cooperation in the fight against terrorism, drugs trafficking and other forms of serious international crime, both in Article K.1 of Title VI of the Community pillar, where asylum and immigration were listed only as 'matters of common concern' (Treaty on European Union), as well as in the provisions for actual cooperation on asylum and immigration, which was placed in the intergovernmental Third Pillar and rested on the securitarian mindset and legacy of the Trevi and Schengen groups.

The subsequent Treaty of Amsterdam, adopted in 1997 in order to address the deficiencies of the Maastricht Treaty, is of key importance for understanding the development of asylum and immigration policies and legislation in the EU. In response to the objective need of eliminating the institutional confusion caused by the communitarized single market and the directly related intergovernmental handling of asylum and immigration affairs, the Amsterdam Treaty de-linked asylum and migration from questions of organized crime (Bigo 2005: 74) by moving the former to the Community Pillar, where cooperation was to cover harmonization of national provisions on the reception of asylum-seekers, procedures for processing of asylum applications, minimum standards for the qualification of persons as refugees, temporary protection, policies on entry as well as closer cooperation to combat illegal migration, including repatriation under Title IV (Treaty of Amsterdam Title IV).

However, it codified the nexus of asylum–migration–security through the establishment of the Area of Freedom, Security and Justice (AFSJ), ‘in which the free movement of persons is assured in conjunction with appropriate measures with respect to external border controls, asylum, immigration and the prevention and combating of crime’ (Treaty of Amsterdam Article B). Not only did this not break the security continuum (Lavenex 2001: 136); it institutionalized the link between asylum and immigration and security matters. The intergovernmental securitarian legacy was also confirmed by the incorporation of the Schengen acquis into the legal framework of the EU and by upholding democracy-starved decision-making measures such as unanimity at the Council and consultation procedure with the European Parliament despite the move of asylum and immigration matters to the Community pillar, which more usually would condition qualified majority voting at the Council and co-decision procedure with the European Parliament. Besides, the Member States retained their right to put forward proposals for new legislation in this area (which is commonly a competence of the European Commission) for a further five years, thus allowing them to retain considerable control over the matters of asylum and immigration. Through the Amsterdam Treaty, the powers of the European Court of Justice were extended to cover interpretation of Title IV as well as rulings on the validity of interpretations of courts, but only provided they constituted the final instance in the particular MS (Geddes 2008: 124). This arguably resulted in much slower coherence in the reading and application of law and kept the influence of the ECJ over the politicized asylum and immigration matters to the minimum. Thus, examination of the Treaty basis of cooperation in this field demonstrates that securitization of asylum and immigration by means of pooling them with security issues in a security continuum was established by the Maastricht Treaty and confirmed by Amsterdam Treaty, which codified the asylum-migration-security nexus in the AFSJ. This is of paramount importance, as the Treaties constitute the very foundation of EU work, competence and identity.

In terms of political discourse, examination of the Presidency Conclusions of the European Council summits and press documentation from the JHA Council meetings demonstrates the salience of asylum and immigration issues as well as that they are pooled with crime matters and occasionally linked to security concerns. The Florence

European Council in June 1996 explicitly noted that the Union would be brought closer to its citizens by *inter alia* 'meeting their need for security, which implies improving substantially the means and the instruments against terrorism, organized crime and drug trafficking, as well as the policies on all aspects of asylum, on visas and on immigration with a view to a common judicial area in this context' (European Council 1996: Article V).

The Dublin European Council of December 1996 instructed the upcoming Intergovernmental Conference tasked with drafting the Amsterdam Treaty, 'to work to reach agreement on a strengthened capacity for action in relation to visas, asylum, immigration, the crossing of external borders, the fight against drugs and international crime including terrorism, offences against children and trafficking in persons... These issues are of the most serious concern to citizens in all Member States and the Union must be given the means to act effectively in these areas' (European Council 1996a: Article IV).

The Austrian Presidency of the Council of the European Union of 1998 linked migration to security explicitly (Boswell 2003: 628; Sterkx 2003: 9), made the proposal of overhauling the entire EU asylum system by focusing on temporary protection and invited the Council to search for ways and means to strengthen the security of the external border (European Council 1998). Subsequently, the Tampere European Council declared that the establishment of the AFSJ was at the 'very top of the political agenda' (European Council 1999 Title X). It must be noted, however, that asylum and immigration were not concerns in the fight against terrorism that was increasingly a topic of community action. Neither the meeting on 26 September 1995, in response to the Oklahoma bombings, where the JHA Council discussed the fight against terrorism, nor the La Gomera Declaration, adopted by the JHA Council on 23 November 1995, which denounced all forms of terrorism and indicated the steps to be taken for fighting it, request links to asylum or immigration to be examined (Council of the European Union 1995c; idem 1995d). This might have stemmed from awareness that the acts were carried out by nationals of the USA; however it might also denote that the link between refugees and terrorism was not established. Analysis of the political discourse during the period between 1992 and 9/11 thus demonstrates the politicization of asylum and immigration and their linking with security issues in a security continuum in response to a threat construct that did not conform to reality, as the figures of asylum applications began to decline significantly with the end of conflict-induced displacement in the Balkans, Afghanistan and other regions in the late 1990s (Garlick 2006: 46). However, the securitizing speech acts are rather sporadic and secondary, do not link asylum and immigration with terrorism directly and appear not to have called for any extraordinary measures.

Concerning policies and legislation on asylum, the pre-9/11 period is mainly characterized by early attempts at harmonization and a resulting broad range of non-binding measures, which nevertheless are significant as they determined the basis and nature of the subsequent supranationalized cooperation. Of key importance are the

London Resolutions and Conclusions of 1992, later formally adopted by the Edinburgh European Council (Lavenex 2001: 112). They signalled a pronounced restrictionist stance towards the recognition of asylum-seekers and largely 'set the agenda for asylum and refugee protection for the next 15 years' (Guild 2006a: 638). These were the Conclusions on Countries in Which There is Generally No Serious Risk of Persecution ('safe countries of origin'), Resolution on a Harmonized Approach to Questions Concerning Host Third Countries ('safe third countries') and Resolution on Manifestly Unfounded Applications for Asylum, which together effectively reduced access to protection for persons considered eligible for protection elsewhere or not in genuine need of it (Council of the European Union 1992, 1992a, 1992b; Lavenex 2001: 112). In addition, a Recommendation regarding Practices followed by Member States on Expulsion was adopted at the same meeting in London, calling for a quick, efficient, functional and economical approach to expulsion (Lavenex 2001: 113). These documents introduced a whole new set of possible accelerated and simplified procedures, and a new buffer zone of 'safe third countries' and 'safe countries of origin' the unwelcome immigrants could be returned to, signifying an administrative policy measure securitizing the asylum-seeker. This approach was affirmed by the Resolution on minimum guarantees for asylum procedures, adopted in June 1995, which covered a wide range of rights of asylum-seekers at the lowest common denominator level (Council of the European Union 1995a).

The politicized construct of asylum was visible not only in the lack of sufficient procedural safeguards, but also in the suggestion that there should be no *de facto* or *de jure* grounds for granting asylum to a national of another MS (Council of the European Union 1995a Article 20). Subsequently, in 1996, the Council adopted the Joint Position on the harmonized application of the definition of the term 'refugee' (Council of the European Union 1996), which was 'in clear opposition to the main cause of refugee flows' and departed 'from the liberal practice', often followed by individual MSs (Lavenex 2001: 119). Temporary protection as an option preferred over full refugee status was discussed at the JHA Council, in light of the ex-Yugoslav and Albanian crises (Council of the European Union 1997), and the response to the influx of Iraqi migrants noted on the one hand that a large portion of the asylum-seekers were in genuine need of protection, warranting harmonization of asylum procedures, while on the other hand emphasizing the importance of intensified pre-frontier and border controls to curb the flows (Council of the European Union 1997a). These early efforts at harmonization of asylum policies and legislation by means of non-binding measures illustrated that the MS were ready to agree only on the lowest common denominator; they also demonstrated the increasing emphasis on control and exclusion of the securitized asylum-seeker.

The pace of cooperation on asylum matters was significantly accelerated by the Amsterdam Treaty, which required adoption, by May 2004, of binding 'measures on asylum, in accordance with the 1951 Geneva Convention and the 1967 Protocol relating to the status of refugees and other relevant treaties' in five areas (Amsterdam Treaty 1997 Art 63), thus setting in motion most of the legislation that was passed after 9/11. Securitization of asylum was demonstrated not only in the codification of the asylum-migration nexus, discussed earlier, but also in the reinforcement of the concept that

asylum was in principle to be denied to nationals of other EU MS by the so-called 'Spanish Protocol', included in the Treaty (Treaty of Amsterdam, Protocol on Asylum for Nationals of Member States of the European Union). Substance to the AFSJ was given by the Extraordinary Meeting of the European Council held in Tampere in the subsequent year, which gave great weight to how asylum and immigration issues would be framed and marked a conceptual turn, signifying somewhat reduced securitization of asylum. The Heads of States seemed to recognize the danger of an emerging 'Fortress Europe' (Lavenex 2001: 106); hence, although focus was still on control and limiting immigration, as well as the fight against illegal immigration, the overall approach was rather more balanced and demonstrated concern over the protection of refugees and asylum-seekers and their rights.

The Council reaffirmed 'the importance the Union and Member States attach to absolute respect of the right to seek asylum' and launched work on the Common European Asylum System, 'based on the full and inclusive application of the Geneva Convention, thus ensuring that nobody is sent back to persecution, i.e. maintaining the principle of non-refoulement' (European Council 1999: Article A. II). The Council also facilitated and encouraged elaboration of the Charter of Fundamental Rights of the EU, which was later promulgated by the Nice European Council in 2000. Importantly, the Charter recognized the right to asylum in its Article 18 and provided for complementary protection under Article 19, which set forth that 'No one may be removed, expelled or extradited to a State where there is a serious risk that he or she would be subjected to the death penalty, torture or other inhuman or degrading treatment or punishment' (European Council 2000).

Although the Charter is not yet binding on the MS of the EU, its normative power and significance for development of a rights-based approach to the protection of asylum-seekers should not be underestimated. The subsequently adopted Council Directive on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof, or Temporary Protection Directive as it is commonly referred to (Council of the European Union 2001a), constituted the only binding measure related to asylum of the period from 1992 to 9/11. Although it failed to establish a satisfactory burden-sharing regime, it is argued that it still struck a compromise between 'control' and 'humanitarianism' (Durieux and Hurwitz 2004: 143), replicating the slightly more balanced approach of the Tampere European Council.

Analysis of asylum-related developments in the period from 1992 to 9/11 thus demonstrates a mixed record. On the one hand, many of the adopted non-binding harmonization measures were restrictionist and reflected the lowest common denominator. On the other hand, however, a link between asylum, immigration and internal security was not explicitly made, and it appears plausible to conclude that securitization of these matters stemmed mostly from the perceived threat they posed to the Western welfare state, its cultural identity and the functional integrity of the EU. The more humanitarian and balanced approach of the Tampere European Council as well as

the recognition of a right to asylum and provision of complementary protection in the Charter of Fundamental Rights of the EU, also signalled a slight reduction of the securitization of the asylum-seeker. Importantly, the only legally binding Directive related to asylum during this period struck a compromise between control and humanitarianism and denoted more balance and less securitization.

Developments regarding immigration before 9/11 were twofold. The Treaty of Amsterdam established Community competence in legal immigration affairs, whereas the more sensitive illegal immigration was left in the intergovernmental Third Pillar (Treaty of Amsterdam Title IV). Following the securitarian framework set by the Schengen Agreements, the fight against illegal immigration played an important part in the non-entrée regime of the EU (Chimni 1998: 352) and was prioritized over provisions for legal entry (European Council 1999; Council of the EU 1998c). Hence, the scarcity of legal immigration channels meant illegal entry was often the only means of accessing protection and a better life in the EU; the tragic consequences of illegal immigration were illustrated *inter alia* by the incident in Dover in July 2000 in which 58 Chinese nationals trying to enter the UK illegally lost their lives (Commission of the EC 2000). A possible redirection of the policy framing was however indicated by the Tampere European Council, which followed a more equitable approach and stated that an EU immigration policy should strike a balance between humanitarian and economic admission, as well as aiming to provide TCNs with rights comparable to those of the nationals of the EU (European Council 1999). Subsequently, the European Commission called for revisiting the EU's 'zero immigration' policy and suggested new channels for legal immigration be made available to labour migrants in the Communication on Community Immigration Policy in 2000 (Levy 2005: 34, Commission of the EC 2000). This Communication was followed up by the proposal for a Directive on the conditions of entry and residence of third-country nationals for the purpose of paid employment and self-employed economic activities, tabled in July 2001 (Commission of the EC 2001). Although before 9/11 Community legal immigration schemes were not developed and the significance of the fight against illegal immigration prevailed, the post-Tampere efforts thus suggested a possible revision of the non-entrée regime and an opportunity to establish a more balanced system, where fighting illegal immigration would constitute a legitimate concern considerably less implicated in the broader protection regime of the EU.

The unravelling convergence of foreign policies and asylum and immigration affairs constituted another significant element in the securitization of asylum and immigration in the EU. It manifested in an escalated cooperation with third countries on migration issues and resulted most notably in the conclusion of a number of bilateral readmission agreements, which legalized return of the asylum seeker even before the asylum claim was entertained. In anticipation of massive immigration flows, the escalated border controls of early 1990s with the newly independent Central and East European countries (CEEC) were relaxed only after the respective readmission agreements were signed (Lavenex 2001: 114); asylum along with drugs, frontier controls, judicial and police cooperation in general came to constitute priority fields for cooperation with the CEEC as well as Malta and Cyprus (Council of the European Union 1996a). The Essen European Council also

noted the need to explore ways of cooperation with the Mediterranean partners, including the fight against illegal immigration (European Council 1994: Annex V Article 7) – an initiative that resulted in the Barcelona process launched in 1995. Subsequently, as the anticipated ‘invasion’ of East and Central Europeans never took place, the concept of threat was reoriented towards Africa and the Middle East, and the High-Level Working Group on Asylum and Migration (HLWG), which was established in 1998 to provide a coherent and comprehensive approach to the countries of origin of migratory movements, directed its efforts towards Afghanistan, Albania, Morocco, Somalia, Sri Lanka and Iraq (Boswell 2003a: 115; Tsoukala 2005: 166). The Action Plans drafted by the group manifestly emphasized the security component (Sterkx 2003: 20) and focused on anti-trafficking and control measures, signifying a securitarian logic. The politicization and salience of the issue was cemented by the call for a comprehensive approach that would integrate JHA matters in all areas of external relations of the Tampere European Council (European Council 1999), further elaborating on the establishment and work of the HLWG on Asylum and Migration. Subsequently, the notion of readmission agreements was taken a step further when powers to negotiate EC readmission agreements with the Russian Federation, Hong Kong, Makao, Sri Lanka, Morocco and Pakistan were afforded to the European Commission in 2000 and 2001 (Council of the European Union 2000, Odysseus Academic Network 2009: 283). Hence, asylum and immigration matters were hijacked not only by experts from the interior and justice ministries, but also by the high politics of foreign affairs. This link, which may be exploited to the disadvantage of refugee-producing countries and the refugees themselves, constituted another element of the politicization and securitization of asylum and immigration.

Closely related to the convergence of asylum and immigration policies with external affairs were developments of visa policies. Visa policies found a place in Article 100c of the Community pillar of the Amsterdam Treaty, where the Council, acting unanimously, could draw up lists of TCNs in need of a visa for crossing the external border (Geddes 2008: 103). In 1995, according to the requirements set by the Maastricht Treaty, a Council Regulation laying down a uniform format for visas was adopted (Council of the European Union 1995) as well as a Regulation determining the third countries whose nationals must be in possession of visas when crossing the external borders of the MS (Council of the European Union 1995b). The significance of the latter Regulation lies in that it deemed risks relating to security and illegal immigration to be a priority consideration for establishing the content of the list and did not provide any safeguards or exemption from visa requirements to the potential asylum-seekers likely to be generated by the listed countries (Council of the European Union 1995a; Article 2.2). Subsequent legislative acts on the matter, adopted in 1999 and 2001, replicated these provisions (Council of the EU 1999; 2001).

Article 3 of the Council Regulation of 2001, listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement, notably stipulated the following:

Without prejudice to obligations under the European Agreement on the Abolition of Visas for Refugees, signed at Strasbourg on 20 April 1959, recognized refugees and stateless persons:

- shall be subject to the visa requirement if the third country where they reside and which issued their travel document is one of the third countries listed in Annex I;
- may be exempted from the visa requirement if the third country where they reside and which issued their travel document is one of the third countries listed in Annex II. (Council of the European Union 2001)

The list of countries in Annex I included places that were the likeliest to generate asylum-seekers in genuine need of protection. Thus, the Regulation served as an indisputable instrument in the further tightening of legal entry options and securitization of asylum and immigration. The reach of these provisions was further strengthened by the Council Directive supplementing the provisions of Article 26 of the CISA, harmonizing penalties to carriers for transporting illegal migrants, adopted in June 2001 (Council of the EU 2001b). While it was stated that execution of the provisions of the Directive should take place 'without prejudice to Member States' obligations in cases where a third country national seeks international protection' (of Council of the European Union 2001b: Article 4.2), the actual implementation of the minimal safeguard was questionable. Lastly, a Directive on the mutual recognition of decisions on the expulsion of third country nationals was adopted, privileging the politicized solidarity among states over the rights of the individual (Guild 2006: 642). These measures established the system of administrative or 'passive' interception (Moreno Lax 2008: 322), which effectively reduced access to protection for the securitized asylum-seeker.

Technological solutions

Adoption of the CISA and the Dublin Convention was accompanied by a decisive and significant move towards the elaboration of technological solutions in support of migration management. The design, content and use of the technological fixes indicated yet another step towards securitization of the asylum-seeker. These will be sketched out in more detail below.

The Schengen Information System (SIS) was set up under the CISA in 1990 and began operating in 1995. It held information on people wanted for arrest or extradition, missing persons, stolen vehicles, firearms and other objects, and on TCNs to be refused entry in the Schengen area (Baldaccini 2008: 37), and was defined as a tool for use by police, border and immigration officials from its inception (Boswell 2007: 601), thus constituting a database that linked the immigrant and potential asylum-seeker with crime explicitly. Development of a 'technological fix to the question of identifying the body of the asylum seeker' (Guild 2006: 66) was expedited in 1991 with a view to a functional implementation of the Dublin Convention. Negotiations over the content and use of this database were

protracted throughout the course of the 1990s, figuring prominently in each meeting of the JHA Council. States could not agree on whether the database should contain only data only on asylum-seekers, as initially envisaged, or information on illegal migrants as well (Council of the European Union 1998, 1998a), and whether management of the database should be left to the European Commission or one of the MS. In the absence of political agreement, possibilities for bilateral exchange of fingerprints were discussed (Council of the European Union 1998), signifying the importance the MS assigned to this technological solution. Its final version, adopted in 2000 (Council of the European Union 2000a), stipulated processing of three types of biometric data: (1) on asylum-seekers, (2) on aliens apprehended in connection with the irregular crossing of an external border and (3) on aliens found illegally present in a MS. The result was a ‘convergence in policy of the categories of persons irregularly crossing borders and asylum applicants’ (Guild 2006: 66) and it is rightly claimed that Eurodac constituted ‘essentially an immigration data-base to support the implementation of the European asylum policy’ (Baldaccini 2008: 42), which was directed towards restrictionism.

Two additional technological tools were devised to support the migration policies of the EU before 9/11. In 1998, the Joint Action setting up a European Image Archiving System (FADO), which provided a mechanism for exchange of images and expertise in detection of false or forged documents in support of the fight against illegal immigration and organized crime, was adopted (Council of the European Union 1998b). In 1999, the Early Warning System was set up to facilitate immediate transmission between national authorities of the first indications of illegal immigration and facilitator networks, and new developments that suggest new trends in matters of illegal immigration (European Parliament website). These measures demonstrated the increasing emphasis on security and technology while at the same time suggesting a link between asylum seekers and terrorism and other crimes (Khan 2008).

Institutional, administrative and operational set-ups and practices

Before 1992, cooperation on asylum and immigration took place in inter-governmental fora, which provided essentially security-oriented environments for discussing asylum and migration with an already explicit deficit of democratic overview. The first such group established was the Trevi (an acronym for ‘Terrorisme, Radicalisme, Extremisme et Violence Internationale’), established in 1976 notably in response to the terrorist killings at the 1972 Olympic Games in Munich and the rise of drugs problems in Europe (Puntscher Riekmann 2008: 19). This group was composed of justice and interior ministers, policy experts and police officers, and linked terrorism, radicalism and international violence to migration and inextricably asylum (Juss 2005: 772). Further to that, the Ad Hoc Working Group on Asylum and Immigration was formed and split from the Trevi group. It involved many of the same ministers and civil servants as the Trevi, and the objective of this group was to deal with abuse of asylum systems of the participating MS and the increasing number of applications (Heisler and Layton-Henry 1993: 164). This confirmed the shift of asylum and immigration from the humanitarian ‘low politics’ to the ‘high politics’ of security, the basic logic behind this cooperation being the anticipated ‘qualitative and quantitative increase in the asylum “problem” threatening

internal stability and security as well as the European integration process per se once internal border controls were abolished (Lavenex 2001: 100). One of the outputs of the group was agreement on a common policy on asylum applications and the penalties to airlines and other carriers for transporting inadequately documented asylum seekers across the borders of the European Community (Layton-Henry 1992 quoted in Heisler and Layton-Henry 1993: 164). This signified yet another step towards a security continuum as an institutionalized mode of policy making linking border control, terrorism, international crime and migration (Huysmans 2006: 71).

The K.4 Committee, established by the Maastricht Treaty to provide bureaucratic support to the Council and to improve communication and transparency among the ministries (Lavenex 2001: 111), in reality assumed the duties of the Trevi and Ad Hoc Group on Immigration, replicating the same *modus operandi* and level of secrecy (Geddes 2008: 100). Multiplication of coordinating entities was evident, as the Committee of Permanent Representatives (COREPER) as well as a number of working and steering groups were involved in the work on asylum and migration matters along with the K.4 Committee. The lead, however, remained in the hands of the interior ministries, which strengthened their reach by placing staff from interior and justice ministries at the Permanent Representations (Lavenex 2001: 128), illustrating the importance attached to 'security experts' in the management of asylum and immigration issues. The Amsterdam Treaty renamed the K.4 Committee as the Article 36 Committee, but the *modus operandi* of the group remained the same, with the interior ministries increasing their hold over JHA matters, while the influence of other ministries from the fields of 'lower politics' weakened (Lavenex 2001: 128). The plethora of involved entities was further complemented by the establishment of the High-Level Working Group on Asylum and Migration, discussed above, and the Strategic Committee on Immigration, Frontiers and Asylum (SCIFA), established to ensure the coordination of preparatory work of the Council in this policy area. SCIFA, like the other groups, consisted mainly of officials from justice and interior ministries, thus reproducing and re-affirming the securitarian highjacking of asylum and immigration matters. Besides creating rivalry and confusion (Lavenex 2001: 128), the multiplication of coordinating entities indicated securitization of asylum and immigration in the EU.

In terms of operational cooperation, two centres were established - the Clearing House for Information, Discussion and Exchange on Asylum (CIREA) with the task of gathering and exchanging information on asylum seekers, and the Centre for Information, Discussion and Exchange on the Crossing of Borders and Immigration (CIREFI), which was to support the implementation of tight border controls (Lavenex 2001: 111). Furthermore, in 1995 a European Police Office (Europol) was adopted (Europol website). It created European police cooperation, which became operational in 1999 and is claimed to have input in the management of external borders as well, thus linking asylum and immigration with police cooperation and the fight against organized crime. The need to further 'promote operational cooperation between the competent authorities of the Member States in controlling the Union's external borders' was reiterated by the Nice European Council in December 2000 (European Council 2000: Article 51). This suggested

that cooperation in guarding the external borders of the EU would be seen from a predominantly securitarian perspective; real operational cooperation was however only beginning to develop.

Summary of the signifiers of securitization in the period from 1992 to 11 September 2001

This chapter has demonstrated that signifiers of securitization of asylum and immigration can be found in all three domains of analysis – (1) politics, policy-making and legislation, (2) technological solutions and (3) institutional, administrative and operational practices and set-ups. In summary, they are the following:

In the politics, policy-making and legislation area, five main identifiers of securitization are established. Firstly, the asylum–migration–security nexus was codified in the Treaty base of the EU. It was also replicated in political rhetoric, though sporadically and asylum and immigration were not stated as relevant in the declarations on the fight against terrorism. Secondly, regarding asylum, non-binding harmonization measures were adopted only at the lowest common denominator level. However, a link between asylum on the one hand and internal security on the other was not explicitly made, and the Tampere European Council as well as the Charter of the Fundamental Rights of the EU indicated a shift towards a more humanitarian stance, also demonstrated by the Temporary Protection Directive. Thirdly, securitization was manifested in the convergence of asylum and immigration matters with foreign affairs, which signified that the former were hijacked not only by experts from the interior and justice ministries, but also by the high politics of external relations. Fourthly, securitization is observed in the wide range of adopted flanking measures, which escalated border controls and established passive interception by means of harmonization of visa policies and legislation on penalties for carriers. Fifthly, asylum and immigration were securitized by the fight against illegal immigration, which the strict border controls and reduced legal entry options sometimes rendered the only means of accessing protection. It must be noted, however, that the articulated aspirations towards establishment of a common and equitable legal immigration policy indicated a possible conceptual change.

This period also saw a shift towards reliance on the support of technological solutions for successful implementation of policies and legislation. This trend manifested in the creation of databases that de-personified the asylum-seeker and immigrant and intermingled them with illegal migrants and crime-related information, creating a pool of data at the disposal of ‘security experts’.

The institutional, administrative and operational domain shows an evident multiplication of coordinating bodies and a consistent monopoly of interior and justice ministries over asylum and immigration issues, thus signifying securitization of the asylum-seeker. Calls for operational cooperation and early developments in this area suggested conceptualization of external border control through the lens of a securitarian mindset. These developments demonstrate that, although securitization of asylum and immigration in the EU before 9/11 is identified in all three domains, it was variable and

sporadic, and exhibited both quantitative and qualitative fluctuation which negates the claim that comprehensive and consistent securitization of asylum and immigration was completed before the terror attacks. Besides, a conceptual shift within the political, legislative and policy-making area took place at the end of the 1990s, opening up the possibility of establishment of a more equitable asylum and immigration paradigm within the EU. Examination of whether the humanitarian approach prevailed and whether and how the events of 9/11 impacted the securitization of asylum and immigration follows in the next Chapter.

4 Asylum and immigration in the EU from 11 September 2001 to 2008

In this Chapter, acts and processes that signify securitization of asylum and immigration in the aftermath of 9/11 in the three established areas – (1) politics, policy-making and legislation, (2) technological solutions and (3) institutional, administrative and operational practices and set-ups – will be defined and analysed. The identified signifiers will be juxtaposed against respective signifiers of the period before 9/11 to tease out the effect of these events on the way asylum and immigration in the EU are framed.

Politics, policy-making and legislation

Contrary to its much maligned image of a slow bureaucracy, the EU reacted swiftly and decisively to the terror attacks of 9/11. The Extraordinary JHA Council meeting on 20 September 2001 issued instructions under the Title ‘Measures at borders’ to profoundly and immediately strengthen control measures at the external borders, to examine urgently the situation in relation to countries and regions at risk of producing large-scale population movements and subsequent use of temporary protection, and for the Commission ‘to examine urgently the relationship between safeguarding internal security and complying with international protection obligations and instruments,’ implying a possible link between asylum and terrorism (Council of the European Union 2001c). The conclusions of the extraordinary European Council, held the next day, spoke in an unusually emotional language by asserting that the attacks were ‘an assault on our open, democratic, tolerant and multicultural societies’; as a response, the European Council instructed the JHA Council to *inter alia* set up a fund for Afghan refugees and adopt the entire package of measures decided upon at the Tampere Council at its earliest convenience (European Council 2001).

Two elements of the Working Document on the relationship between safeguarding internal security and complying with international obligations and instruments, issued by the European Commission in December 2001, are significant. On the one hand, it did not propose major amendments to the existing policies on asylum (Commission of the European Communities 2001a). The Document stated that its two basic premises were ‘firstly, that bona fide refugees and asylum seekers should not become victims of the

recent events, and secondly, that there should be no avenue for those supporting or committing terrorist acts to secure access to the territory of the Member States of the European Union' (Commission of the European Communities 2001a: 6). It went on to state that asylum is, however, not a likely means of entry for terrorists, irregular immigration figuring higher on the list of possibilities, thus rendering reinforced safeguards appropriate there. The European Commission also emphasized that 'any security safeguard...needs to strike a proper balance with the refugee protection principles at stake. In this context the Commission fully endorses the line taken and expressed by UNHCR that, rather than through major changes to the refugee protection regime, a scrupulous application of the exceptions to refugee protection available under current law, is the appropriate approach' (Commission of the European Communities 2001a: 6). On the other hand, however, securitization of asylum and immigration is detected in the more subtle suggestion that the non-derogability of Article 3 of the European Convention on Human Rights and Fundamental Freedoms, which has come to provide instrumental complementary protection to asylum-seekers, may be revisited in the future (Commission of the European Communities 2001a: 14). Furthermore, an explicit act of securitization, linking asylum and terrorism, was made in the Common Position on Combating Terrorism issued by the Council of the European Union two weeks after the Commission's study, which instructed that:

- Article 16: Appropriate measures shall be taken in accordance with the relevant provisions of national and international law, including international standards of human rights, before granting refugee status, for ensuring that the asylum-seeker has not planned, facilitated or participated in the commission of terrorist acts;
- Article 17: Steps shall be taken in accordance with international law to ensure that refugee status is not abused by the perpetrators, organizers or facilitators of terrorist acts and that claims of political motivation are not recognised as grounds for refusing requests for the extradition of alleged terrorists (Council of the European Union 2001c).

Although securitization of asylum and immigration through political discourse was already present in the pre-9/11 period, a striking difference is thus observed in the processes taking place after the terrorist attacks. Asylum and immigration were linked to terrorism directly. The JHA Council was required to meet more frequently than before, signifying the even greater importance the EU then afforded to JHA affairs. Top political priority was ascribed to migration in general and calls for escalated controls at the external borders, effective management of migratory flows, stepped-up fight against illegal immigration, intensification of the elaboration of the external dimension of JHA affairs and reiteration of the importance of cooperation with third countries that migratory flows originate from or transit through, especially by urgent conclusion of readmission agreements, as well as hastening the adoption of a common policy on asylum and immigration as soon as possible are common to the majority of the JHA Councils and European Councils with JHA issues on the agenda, held from 9/11 throughout to 2008. The Pact on Immigration and Asylum, concluded under the aegis of the French Presidency in autumn 2008, confirmed the securitization trend by emphasizing enforced border controls, returns policy and the use of technical means such as biometrics for management of migration flows (European Council 2008: 4). Evidence of the increased

securitization of asylum and immigration was also provided by the Report on Implementation of the European Security strategy, issued in December 2008, which listed migration among the threats that the EU faced (European Council 2008b). This denoted both quantitative change, as asylum and immigration, especially in regard to security issues, were discussed considerably more often than before 9/11, and qualitative change in the nature of securitization – not only were asylum and immigration conceptualized as threats and pooled in a security continuum with organized crime and terrorism, they were now linked to the latter directly.

Quantitative and qualitative change is also observed in the securitization of asylum and immigration through the fight against illegal immigration and escalated border control measures, which constitute the most important signifier of escalated securitization in the political, policy-making and legislative domain. As a result of 9/11, proposals for the development of legal immigration schemes were shelved entirely and the imbalance between the escalated fight against illegal immigration and lack of provisions on legal entry options was further skewed. Only as of 2005, the issue of legal migration returned to the discussion table; subsequent European Councils noted its relevance for achievement of the Lisbon Strategy for Growth and Jobs and began discussions on Circular Migration and Mobility Partnerships, as well as an EU blue card for highly-skilled migrants (European Council 2006: 11 and 2007: 5; Council of the EU 2007c). Policies for legal migration, however, form a part of comprehensive migration control and do not address the reduced access to protection.

The fight against illegal immigration, in turn, became an absolute priority for the EU. In 2002, the JHA Council adopted a Comprehensive Action Plan to combat illegal immigration and trafficking in human beings in the EU in accordance with requests made at the Tampere and Laeken European Councils (Council of the EU 2002: 10, 2002b). The Plan, instead of concentrating on eradication of causes of illegal migratory movements, concentrated on control measures at all levels to curb illegal immigration to the EU. The European Council meeting held in Seville in June 2002 also demonstrated an important departure from the more balanced approach presented at the Tampere Council. It concentrated on control measures and returns, which covered both voluntary and forced repatriation, and called for resolute action to curb illegal migration according to the Comprehensive Plan (European Council 2002: 7, 9). The Seville European Council also urged that any future cooperation, association or equivalent agreement which the European Union or the European Community concluded with any country should include a clause on joint management of migration flows and on compulsory readmission in the event of illegal immigration (Council of the EU 2002: 10). Curbing illegal immigration and strengthening controls ‘at land, sea and air borders is of crucial importance’, it was also argued, as a response to ‘the human tragedies which have happened in Dover, in Porto Empedocle and most recently in Scoglitti (Sicily) and on the coasts of Andalusia and the Canary Islands’ by one of the JHA Councils the same year (Council of the EU 2002c: 17). The Hague Program, adopted in 2004, affirmed the salience of illegal immigration and institutionalization of the security continuum pooling terrorism, crime and asylum and immigration (European Council 2004: 4), and in 2007,

the Common 18-months Presidency Programme on Police and Customs Cooperation declared that:

Frequently, asylum-seekers and foreigners who are staying in the EU unlawfully are involved in the preparation of terrorist crimes, as was shown not least in the investigations of suspects in the Madrid bombings and those of terrorist organizations in Germany and other Member States (for instance, two of the five accused in German proceedings against the terrorist group 'Al Tawhid', which prepared attacks against Jewish institutions in Berlin and Düsseldorf, were asylum-seekers) (Council of the European Union 2007: 6).

In addition, an important new development took place outside the remit of EC law, notably, the adoption of the Treaty of Prüm, signed on 27 May 2005 by 7 EU MS (Belgium, Germany, Spain, France, Luxembourg, the Netherlands and Austria) with the aim of 'establishing the highest possible standard of cooperation, especially by means of exchange of information, particularly in combating terrorism, cross-border crime and illegal migration...' (Balzacq et al 2006: 115). The Treaty securitized asylum and immigration by asserting that illegal migration along with terrorism and cross-border crime constitute the central threats these countries are faced with (Balzacq et al 2006: 119). This new form of cooperation is very important for two reasons: firstly, it affirms the securitization of illegal immigration without providing additional ways of legal entry to the EU; and secondly, it demonstrates that measures taken at EU level are perceived as still insufficient. Thus, in regard to the fight against illegal immigration and external border controls, a manifest quantitative and qualitative change is observed vis-à-vis the period predating 9/11. That the imbalance between legal entry options and the fight against illegal immigration is further skewed and that illegal immigration has been transformed from being one of the elements of the asylum and immigration policy of the EU to constituting its central tenet, through which the de facto 'illegal asylum-seeker' (Morrison and Crosland 2000 quoted in Geddes 2008: 131) is created, denotes manifest qualitative change. Quantitative change is in turn found in the higher discursive and policy-making output.

In regard to visa requirements, no substantial change is observed. In 2006, the Council Regulation 539/2001 was amended by the Council Regulation 1932/2006 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement, which moved some countries from one list to another, but failed to relax the visa requirements imposed on asylum seekers (Council of the EU 2006). EU MS can make use of the Limited Territorial Validity visa as an exceptional tool, as provided for in the Common Consular Instructions; however, they are strongly discouraged from doing so (Moreno Lax 2008: 328). Moreno Lax concludes that refugees are left with two improbable possibilities to legally obtain access to protection in the EU – optional and exceptional LTV visas and waivers by carriers (Moreno Lax 2008: 329). It is evident that imposition of visa requirements thus constitutes 'an almost complete barrier to access, since even if refugees are able to safely access a European consular authority in the state of origin, no visa will be issued to an individual for the purpose of making a claim to protection in Europe'

(Hathaway quoted in Juss 2005: 763). The Visa Information System and visa requirements along with carriers' sanctions thus constitute 'the most explicit blocking mechanism for asylum flows' (Moreno Lax 2008: 317), demonstrating the link between 9/11 and continued securitization of asylum and immigration.

Qualitative increase of securitization is in turn observed in asylum policies and legislation. The impact of 9/11 is found in two provisions of the Council Directive on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted (Qualification Directive), adopted in 2004. Firstly, its exclusion clause is broader than that of the Geneva Convention, leaving much discretion to the states and providing for a possible linking of asylum and terror acts (Council of the European Union 2004a). Secondly, although the earlier draft of the Qualification Directive tabled before 9/11 had upheld the absolute character of Article 3 of the ECHR, the adopted legislation did not include this provision (Bruin and Wouters 2003: 11). The post-9/11 environment rendered adoption of the Council Directive on minimum standards on procedures in Member States for granting and withdrawing refugee status contentious as well (Council of the EU 2005c). A proposal for this Directive had already been tabled by the European Commission in 2000; however, subsequently various alterations setting out a different structure for asylum procedures, as well as amendments concerning guarantees, classification of procedures, inadmissibility and appeals were made before it could be finally agreed upon (Council of the EU 2002c: 19) in 2005. The end result of these deliberations was a Directive that brought the principles set out in the London resolutions into EC Law by reproducing the logic of exclusion, and caused serious concerns to the UNHCR in regard to its compatibility with the Geneva Convention (Guild 2006: 642). This provides evidence that securitization of the asylum-seeker was qualitatively exacerbated and that the paradigm of compromise between control and humanitarianism, struck by the Temporary Protection Directive adopted before 9/11, did not prevail.

Qualitative change also manifested in the emphasis on accelerated and extraterritorial asylum procedures as well as enhancement of protection in the regions of origin. In 2003, the JHA Council, in regard to the question of border procedures, examined the possibility for a Member State to remove, from its borders or territories, asylum applicants who have entered irregularly or arrived from a neighbouring safe third country (Council of the EU 2003a: 8). Although British proposals on extra-territorial processing of asylum applications were voted down, thus rendering unfeasible this highly extreme measure, the concept of Regional Protection Programmes simply denoted a differently conceived and managed element of the same policy of keeping the securitized asylum-seekers and migrants beyond the borders of the EU. Importantly, the Thessaloniki European Council also requested examination of what it called 'non-international protection-related' asylum claims to be accelerated as much as possible (European Council 2003: 8), bypassing the normal democratic procedure (Lavenex 2001: 236). The Hague Programme, adopted in 2004 to launch the second phase of the CEAS, in turn revealingly instructed the Commission to explore the merits, appropriateness and feasibility of a joint processing of asylum applications outside EU territory (European Council 2004: 18), signalling an

intent to stop the asylum-seeker from entering the EU or diverting him to the territory of third states (Guild 2006: 646). These developments signify a qualitative increase of securitization, which manifested in the contents of the amended protection provisions, narrower legislative safeguards for asylum seekers, the call for accelerated procedures and an increasing emphasis on keeping the asylum-seeker out by enhancing protection in the regions of origin (European Council 2003: 8).

The external dimension of migration policies too gained considerable momentum after 9/11. The European Council meeting held in Seville in June 2002 called for intensified cooperation with third countries (European Council 2002: 7, 9) and urged for any future cooperation, association or equivalent agreement that the European Union or the European Community would conclude with any country, to include a clause on joint management of migration flows and on compulsory readmission in the event of illegal immigration (Council of the EU 2002: 10). Repercussions were suggested for those partners that failed to cooperate, in slight departure from the usually quite subtle diplomatic language used by the political elite of the EU. The Thessaloniki European Council followed down the same avenue by reiterating the importance of returns and interception of illegal migrants as one of the priorities in cooperation with third countries (European Council 2003: 6). Hence, in 2005, in line with the call of the Tampere European Council for a comprehensive approach to migration issues, the Global Approach to Migration was adopted (European Council 2005); its development was called a 'fundamental priority of the Union' (European Council 2006: 4). In addition, a migration component was added to the Barcelona Process in 2005 and the need to conclude re-admission agreements, which were seen as an 'extremely useful and efficient instrument in the fight against illegal migration' (Council of the EU 2002c: 20), was repeatedly reiterated. Thus, asylum and immigration affairs were not only highjacked by the high politics of external relations considerations; instead, they became a constitutive element of foreign policy. This development signified a manifest quantitative and qualitative increase in the securitization of asylum and migration after 9/11.

Technological solutions

As concluded in the preceding Chapter, four relevant databases had been set up before the events of 9/11 – the SIS and the Early Warning System which were by then operational, and FADO and Eurodac, which became operational later. Examination of the post-9/11 period demonstrates that the already established importance attached to technological solutions in support of the management of immigration flows and the identification of the body of the asylum-seeker became yet more pronounced. Changes occurred to all of the databases by means of increased interoperability and access by security agencies; new technological developments were also introduced. These will be sketched out in more detail.

Already on 21 September 2001, the JHA Council at its extraordinary meeting began to consider extending access to SIS to other public services (Boswell 2007: 602). Development of an updated system – SIS II – was initiated in December 2001 (Council of the EU 2001d) and its functional requirements, such as access by new authorities to the

database, their use of the SIS II in ways other than initially conceived, as well as storage, transfer and query of biometric data and fingerprints were set in 2003 (Council of the EU 2003: 18, 19). By then, the SIS already contained over one million records on persons, the majority of which were alerts on TCNs to be refused entry to the Schengen area – a category which included both convicted or suspected criminals and those guilty of failure to comply with immigration rules, including many rejected asylum seekers and irregular migrants (Hayes 2005). In 2005, a Decision concerning the introduction of new functions for the SIS, including in the fight against terrorism, was adopted, thus pooling asylum and terrorism directly and giving access to SIS data to Eurojust and Europol (Council of the EU 2005a), the latter being one of the key organizations in the fight against terrorism. Effective use of SIS was also deemed a precondition for abolition of checks at the internal borders with the new MS. To this end, a decision to introduce a transitional system named SISone4ALL, servicing both the old and new Schengen areas, was taken (Council of the EU 2007b: 48). The database has thus constituted a top priority issue throughout the period from 9/11 to 2008, demonstrating the unyielding politicization and securitization of the matter. The introduction of biometric data and one-to-many search to the SIS transform it into an investigative and reporting tool, where people in the database form part of a suspect population for general crime (Baldaccini 2008: 38, 39), evidencing an important qualitative increase in the securitization of asylum and immigration after 9/11.

The same qualitative change applies to the use of the Eurodac database, which became operational in 2003. It has been argued that the police and law enforcement authorities should be given greater access to Eurodac, 'because in many cases this is the only way of identifying suspected offenders or of detecting aliases of suspects' (Council of the European Union 2007: 6). To this end, the JHA Council of 12/13 June 2007 requested the Commission to present an amendment to the Regulation establishing Eurodac to allow for police access to the database 'as soon as possible' (Baldaccini 2008: 44) and the European Commission has accordingly tabled a proposal which considers the possibility of extending the scope of Eurodac to use of data for law enforcement purposes (Commission of the European Communities 2007: 11), thus evidencing a striking securitization practice with direct links to the events of 9/11.

As regards the Early Warning System, the Council adopted on 16 March 2005 a decision that transformed the system into a secure internet site facilitating information sharing on incidents, named ICONet (Council of the European Union 2005b). The new site provides for more exchange of strategic and tactical information on illegal migration trends and flows. FADO is also currently being transformed into IFADO with an internet-based interface, facilitating communication among the various services. These two databases constitute another escalated measure in the fight against illegal immigration and serve in the fight against terrorism where emphasis is put on detection of forged documents and prevention of false identities (Baldaccini 2008: 33).

The impact of 9/11 is, however, not confined to amendments to the established tools. A new and highly significant technological device came about as a direct consequence of the events of 9/11 – the Visa Information System (VIS). At its extraordinary meeting on 20 September 2001, the JHA Council invited the Commission to submit proposals for establishing a network for information exchange concerning visas (Council of the EU 2001c). Consecutive European and JHA Councils afforded great importance to the setting up of the VIS as well as to the establishment of common consular offices. Hence, the decision establishing the legal basis and financial resources for the creation of the VIS was agreed upon in June 2004 (Geddes 2008: 104). Importantly, the VIS will share its technical platform with the SIS and both databases will include biometric data, including photographs and fingerprints of all TCNs applying for short-term visas (Geddes 2008:104), as well as information on previous applications and rejections, thus preventing the so-called ‘visa-shopping’ and rendering a rejection at one consulate decisive and final (Baldaccini 2008: 40). Besides, the Regulation concerning the VIS of 2008 provides access to the VIS to security authorities and Europol for the purpose of preventing, detecting and investigating terrorist offences on a case by case basis (Council of the EU 2008: Article 3.1). This provision links asylum, immigration and the fight against terrorism directly, because Article 1 of the Community Code on Visas stipulates that ‘rules for processing of visa applications...shall apply to any third country national, who must be in possession of a visa when crossing the external borders pursuant to Council Regulation Ec. No. 539/2001’ and the TCNs referred to in the Regulation designate any person who is not a citizen of the EU, including refugees and stateless persons (Moreno Lax 2008: 325). This means that security agencies charged with prevention of terror attacks and other forms of crime may have access to data on asylum-seekers. In addition, developments have taken place to develop an automated entry-exit system, to oblige air carriers to transmit data on passengers to the responsible authorities in advance within the Passenger Name Record programme, to establish a Surveillance System for the Mediterranean area (BORTEC, European Patrols Network), a European Border Surveillance System (EUROSUR) as well as a common integrated risk analysis model to be used for elaboration of analyses of risks posed by migratory flows (CIREAM). The Council has also agreed on the incorporation into the EU legal framework of the parts of the Prüm Treaty, discussed earlier, relating to police and judicial cooperation in criminal matters (the so-called third pillar) (Council of the EU 2007a: 7) and interoperability of information collected for the Prüm Treaty and the SIS II and VIS may be forthcoming.

These developments indicate that qualitative change in securitization has taken place by means of establishment of novel technological fixes and amended use of the ones pre-dating 9/11. Quantitative change is in turn found in the proliferation and duplication of the technological solutions used for migration management in the EU.

Institutional, administrative and operational set-ups and practices

Within the institutional and administrative field, the complex web of working parties and committees charged with development of asylum and immigration policies have largely remained the same as during the pre-9/11 period. The Hague Programme called for the establishment of a European Support Office to facilitate practical and collaborative

cooperation among the MS in asylum matters (European Council 2004: 18). A proposal for a Council Regulation establishing the office was accordingly tabled in 2009 (Commission of the EC 2009), the delay signifying the relative importance the EU MS afford to the improvement of the protection regime. Whether the office will exert any meaningful influence over the asylum policies and practices in the EU remains to be seen. It is, however, feared that the entity will be weak and politicized, and will only legitimate the restrictive practices of the EU MS at the lowest common denominator level despite political rhetoric.

As described in the previous Chapter, some impetus for the establishment of operational cooperation was established before the events of 9/11. After the terror attacks, however, it became an absolute priority and began to unfold within the framework of the fight against illegal immigration. Already the Laeken European Council of December 2001 asked 'the Council and the Commission to work out arrangements for cooperation 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' (European Council 2001a:12). The JHA Council, meeting in April 2002, stressed the need to reinforce control of sea borders, by establishment of operational measures (Council of the EU 2002: 7). Further to this, the Seville European Council requested as a matter of urgency to have before the end of 2002:

1. joint operations at external borders;
2. immediate initiation of pilot projects open to all interested Member States;
3. creation of a network of Member States' immigration liaison officers. (European Council 2002: 10)

The Thessaloniki European Council subsequently reached a political agreement on establishment of an agency for the management of external borders, mentioned as relevant to counter-terrorism activities (Boswell 2007: 598), and the Commission was invited to urgently submit a proposal for its establishment (Council of the EU 2003a: 11).

Frontex, the EU external borders agency, was accordingly set up by the Council Regulation 2007/2004 in October 2004 (Council of the EU 2004b) and subsequently became operational at a speed highly unusual for EU structures, which illustrated the paramount importance EU MS attached to cooperation on immigration and specifically in the fight against illegal migration. Frontex operates partly based on intelligence and risk analyses of migration trends and has acquired a pronounced security-oriented profile, further exacerbated by the dominance of securocrats from national border guards and police authorities in its management structures. The international protection safeguards of its Joint Operations are unconvincing and to this day its role in the asylum system of the EU appears to be ignored. Although the success of its work is disputable in terms of both managing migration flows and deterring them, the agency has nevertheless constantly gained in political and financial weight, its competence being extended and its budget almost doubled every consecutive year. In addition, the Immigration Liaison Officers (ILO) network has been established, whereby the Immigration Services posted in third countries from MS establish contacts with one another and with the local authorities

in order to collect information on illegal immigration. In 2004, a Regulation aimed at converting the network into a permanent structure was adopted (Council of the European Union 2004); emphasis for placement was to be put on 'priority countries' (European Council 2005: 10). These measures have been instrumental in achieving the objective of keeping the asylum-seeker beyond the borders of the EU by establishing a system of active interception which supplements the passive interception carried out through visa requirements and carrier sanctions (Moreno Lax 2008: 322). This signifies both a quantitative and qualitative increase in the securitization of asylum and immigration in the EU.

Summary of the signifiers of securitization in the period from 11 September 2001 to 2008

Within the political, policy-making and legislative domain, 9/11 resulted in an increased securitization of asylum and immigration in the following four main ways:

Firstly, migration was conceptualized as a threat and a possible link between asylum-seekers and terrorism was contemplated. Explicit requests for provision of sufficient safeguards against abuse of refugee status by potential perpetrators were made, denoting a qualitative change in the securitization of asylum and immigration. Secondly, it being officially established that asylum is an unlikely means of entry for terrorists and that the safeguards would rather need to be escalated against illegal immigration, a huge leap was made in the fight against the latter. The fight against illegal migration was transformed into the central tenet of migration management of the EU and came to constitute a top priority on the political agenda of the EU. Legal immigration schemes in turn were shelved entirely until 2005 and to this date no tangible result has been produced. This illustrated a profound deepening of the imbalance between the fight against illegal immigration and provision of legal entry options, and denoted a qualitative increase of securitization. Quantitative adjustment in turn is demonstrated by the swift adoption of a number of policies and legislative acts. Thirdly, in regard to asylum, qualitative change manifested in the adjusted contents of the adopted asylum measures, narrower legislative safeguards for asylum seekers, the call for accelerated and extraterritorial asylum procedures and an increasing emphasis on keeping the asylum-seeker out by enhancing protection in the regions of origin. Fourthly, securitization of asylum and immigration was manifestly reinforced through the further development of the external dimension of migration, where asylum and immigration were converged with foreign policy priorities and hijacked by high politics.

Technological solutions have been at the heart of the escalated securitization of asylum and immigration. The four main developments demonstrating quantitative and qualitative reinforcement of the securitization of asylum and immigration are the following.

Firstly, the establishment of the VIS, which was a direct consequence of the events of 9/11, was conceived with a securitarian mindset and does not facilitate access to protection for people in need of it. It strengthens the system of passive interception established by visa

requirements and carrier sanctions and constitutes a manifest qualitative and quantitative increase of the securitization of asylum and immigration in the EU. Secondly, the use of biometric data has become considerably more political and is seen as an inextricable component of efficient management of migration flows, which includes, *inter alia*, combating the assumed asylum fraud. This demonstrates the level of suspicion and perceived threat stemming from the unidentified asylum-seeker and denotes escalated securitization. Thirdly, the fight against terrorism has been officially stated as one of the objectives for both the VIS and the SIS II; it has also been argued that Eurodac may be of value there. To this end, access to the VIS and the SIS II will be made available upon certain conditions to the security agencies of the EU; the same conditions may apply to Eurodac in future. This has resulted in data on asylum-seekers being pooled in a huge mass of potential suspects, the border between the asylum-seeker and the criminal being further eroded. A qualitative increase in securitization is therefore observed. Fourthly, considerable progress has been made in the development of various surveillance measures, both along the Southern maritime border and throughout Europe. This implies a greater emphasis on control of migratory flows in support of the claim that securitization of asylum and immigration in the EU has escalated after the events of 9/11.

As regards administrative and institutional practices, qualitative and quantitative change is demonstrated by the considerably greater importance operational cooperation has been afforded since the events of 9/11. The establishment, swift operationalization and continuous politicization of Frontex demonstrate the paramount significance border control measures possess on the agenda of the EU. Although the agency is a component of the wider asylum system of the EU, it is managed from an exclusively securitarian point of view, which is underpinned and reinforced by the monopoly justice and home affairs ministries have held over matters of asylum and immigration in the EU since the 1970s. Establishment of the ILO network adds to this cooperation and symbolizes the far from natural convergence of the policies for migration and foreign affairs.

In general, the scope of questions surrounding the development of the Area of Freedom, Security and Justice has been reduced since 9/11, it being seen predominantly through the lens of the fight against terrorism (Bigo 2008: 91) and illegal immigration. Thus, since 9/11, progressive tightening of the borders, heavily restricted legal entry options and the fight against illegal immigration have resulted in the creation of a 'de facto illegal asylum-seeker' (Morrison and Crosland 2000 quoted in Geddes 2008: 131) and his/her consequent criminalization.

5 Conclusion

Motivated by the desire to critically explore the prevailing wisdom that 9/11 radically altered asylum and immigration policy, this research has been conducted with two objectives in mind: firstly, to answer the question of whether 9/11 mattered and secondly, to identify how it mattered; whether the change was qualitative or quantitative, what areas it affected most and in what ways. This has been done at the supranational level of analysis, which is rendered relevant, important and interesting by the progressive integration and communitarization of asylum and immigration matters in the EU. In assessing the impact of 9/11 on the securitization of asylum in the EU, the pre-9/11 and post-9/11 periods have been compared against core signifiers of securitization in three areas: (1) politics, policy-making, legislation; (2) technological solutions; and (3) administrative, institutional and operational set-ups and practices. Based on the results of the analysis, it has been argued that 9/11 did matter because it escalated the securitization of asylum and immigration in the EU. In disagreement with the suggestion that ‘the political fallout of the violent attacks in the United States on 11 September 2001 have reinforced rather than qualitatively changed the framework that connects internal security to asylum and migration’ (Huysmans 2006: 68), it has also been contended that the securitization manifested both quantitative and qualitative change in all three domains explored.

It must be kept in mind that the conclusion of the European Commission on the relationship between internal security and international protection obligations denied the EU as a liberal democracy and a proponent of respect for universal human rights, the option of further directly linking asylum and terrorism, and subsequently closing its doors entirely to people in need of protection. Open securitization of asylum was made yet more perilous by knowledge that none of the perpetrators of 9/11 was a refugee or an asylum-seeker. This research was thus based on the premise that identifiers of securitization have to be searched in the more indirect and subtle means securitization of asylum and immigration can be conceived and implemented through. Bearing this in mind, analysis has demonstrated that quantitative change is found in the more frequent and emphasized asylum–migration–security nexus in political discourse, in the greater output of asylum and immigration related policies and legislation, progressive tightening of borders, and multiplication of technological fixes and surveillance mechanisms. Qualitative change is in turn found in the reduction of the scope of questions surrounding the development of the Area of Freedom, Security and Justice (Bigo 2008: 91), the establishment of a permanent state of emergency, amended use of and access to the technological fixes, elaboration of surveillance mechanisms, amended protection provisions, the highly politicized role of immigration in the external affairs of the EU, heavily restricted legal entry options and the new salience of the fight against illegal immigration, which has resulted in the creation of a ‘de facto “illegal asylum-seeker”’ (Morrison and Crosland 2000 quoted in Geddes 2008: 131).

Several of the ideas implemented after 9/11 – such as ‘the use of biometric technology and data exchange between agencies as a solution against all forms of crime, terrorism and identity fraud; the tendency to develop a form of policing in networks and at a distance; the will to combine police and intelligence capacities, and to transform justice into an auxiliary of the police instead of the contrary’ (Bigo 2008: 96) – predated the attacks on the Twin Towers and the subsequent political framing of asylum and immigration (Bigo 2002; Guiraudon 2003 as quoted in Huysmans 2006: 8). Neither did 9/11 have the power in itself to bring about a new world order and new security agenda.

However, the discourse of ‘war on terror’ (Huysmans 2006: 7) which the EU chose to adopt after 9/11, has provided an opportunity for a reconceptualization of asylum and immigration and for legitimization of political frames, policies and legislation that had long been unsuccessfully debated before (Levy 2005: 53). 9/11 has also been instrumental in the strengthening of the hold of the control state and subordination of freedom and justice to the concept of security (Bigo 2006: 41). Finally, the terror attacks have constituted a key variable in the political processes defining European integration – for securitizing immigration and asylum had the capacity to construct the political trust, loyalty and identity (Huysmans 2006: 47) that the EU has been struggling to acquire and maintain. These developments demonstrate that 9/11 did result in a slightly different world for asylum-seekers. Regrettably, not a better one.

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