The Securitization of Migration in Europe in the Post-September 11 Era
A Comparative Analysis of Germany and Spain

vorgelegt von

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ABSTRACT

While the burgeoning research on securitization of migration has provided outstanding works and opened up new avenues in migration studies, there is still a gap in the academic literature. The existing works suffer from a lack of clear-cut methodological framework and this hinders the ‘empirical’ application of the securitization theory. Moreover, their exclusive focus on the European Union (EU) prevents us from understanding how the securitization of migration has developed and been structured in different (national) contexts.

For these reasons, this dissertation seeks to offer a systematic and empirical examination of the securitization process in Germany and Spain from a comparative perspective. It also undertakes an EU level analysis to unpack the interplay between the member states and the EU in this process. More specifically, rather than offering ‘objectivist’ claims as to whether (a certain group of) migrants threaten ‘European security’, the dissertation questions how/whether migration has come to be framed and administered as a security issue; whether recent counter terrorism debates have (re)structured the politics of migration; and whether the agendas of these different phenomena have (been) converged in the post-September period at the national and EU levels. In answering these questions and explaining the security framing of migration, it applies a sociological approach to securitization that builds on the role of practices (policies, policy tools, instruments, etc.) administering migration. In other words, the analysis sheds light on how these practices transform migration into a security question. Besides, even though the major focus of the research is the post-September 11 era, a historicized and contextualized analysis, which takes into account the pre-September 11 period, is also carried out. By doing this, the aim is to explore the impact of the September 11 and subsequent attacks in London and Madrid over migration politics in a more comprehensive way and to assess the changes and continuities in the process of the securitization. In accordance with these objectives and methodological perspectives, the expected results of this research are, therefore, significant to challenge and problematize the simplistic and straightforward definition and understanding of the securitization processes pertaining to academic and political discourses.
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Burcu Toğral Koca

Eskişehir, 23 August 2013
To all “Migrants”
# Table of Contents

<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Introduction</td>
<td>6</td>
</tr>
<tr>
<td></td>
<td>1.1. State of the Art and Developing a European and Comparative Perspective on the Securitization of Migration</td>
<td>7</td>
</tr>
<tr>
<td></td>
<td>1.2. Theoretical and Conceptual Background on the Securitization of Migration</td>
<td>15</td>
</tr>
<tr>
<td></td>
<td>1.2.1. Traditional Security Studies</td>
<td>17</td>
</tr>
<tr>
<td></td>
<td>1.2.2. Critical Security Studies</td>
<td>19</td>
</tr>
<tr>
<td></td>
<td>1.2.2.1. Aberystwyth School</td>
<td>21</td>
</tr>
<tr>
<td></td>
<td>1.2.2.2. Copenhagen School of Security Studies</td>
<td>25</td>
</tr>
<tr>
<td></td>
<td>1.2.2.3. Paris School of Security Studies</td>
<td>32</td>
</tr>
<tr>
<td></td>
<td>1.2.3. Critiques of Existing Theories</td>
<td>36</td>
</tr>
<tr>
<td></td>
<td>1.3. Securitization of Migration in the Context of this Research: Towards a Sociological Approach</td>
<td>41</td>
</tr>
<tr>
<td></td>
<td>1.4. Subject and Aims of the Research</td>
<td>46</td>
</tr>
<tr>
<td></td>
<td>1.5. Definition of the Key Concepts and the Scope of Research</td>
<td>48</td>
</tr>
<tr>
<td></td>
<td>1.6. Structure of the Chapters</td>
<td>51</td>
</tr>
<tr>
<td>2.</td>
<td>Methodology</td>
<td>54</td>
</tr>
<tr>
<td></td>
<td>2.1. Research Questions</td>
<td>54</td>
</tr>
<tr>
<td></td>
<td>2.2. Research Design</td>
<td>54</td>
</tr>
<tr>
<td></td>
<td>2.2.1. Historical Analysis of the Pre-September 11 Period</td>
<td>6555</td>
</tr>
<tr>
<td></td>
<td>2.2.2. Brief Reflection on the Changing Perceptions of Terrorism</td>
<td>7456</td>
</tr>
<tr>
<td></td>
<td>2.2.3. Analytical Framework for the Analysis of the Securitization Process</td>
<td>56</td>
</tr>
<tr>
<td></td>
<td>2.2.4. Comparative Analysis and Case Selection</td>
<td>65</td>
</tr>
<tr>
<td></td>
<td>2.2.5. Data Gathering</td>
<td>72</td>
</tr>
<tr>
<td></td>
<td>2.3. Expert Interviews</td>
<td>75</td>
</tr>
<tr>
<td></td>
<td>2.3.1. The Rationale of Conducting Semi-Structured Expert Interviews</td>
<td>76</td>
</tr>
<tr>
<td></td>
<td>2.3.2. Concept of “Expert” and Selection of Interview Partners</td>
<td>78</td>
</tr>
<tr>
<td></td>
<td>2.3.3. Interviewing Phase</td>
<td>89</td>
</tr>
<tr>
<td></td>
<td>2.3.3. Transcription and Analysis of Interviews</td>
<td>92</td>
</tr>
<tr>
<td>3.</td>
<td>Securitization of Migration in the EU</td>
<td>95</td>
</tr>
<tr>
<td></td>
<td>3.1. Historical Overview: The Pre-September 11 period</td>
<td>96</td>
</tr>
<tr>
<td></td>
<td>3.1.1. Early ‘Laboratories’</td>
<td>96</td>
</tr>
<tr>
<td></td>
<td>3.1.1.1. TREVI Group</td>
<td>97</td>
</tr>
<tr>
<td></td>
<td>3.1.1.3. Schengen Agreements</td>
<td>100</td>
</tr>
<tr>
<td></td>
<td>3.1.2. Maastricht Treaty</td>
<td>111</td>
</tr>
<tr>
<td></td>
<td>3.1.3. Amsterdam Treaty</td>
<td>118</td>
</tr>
<tr>
<td></td>
<td>3.1.4. Tampere Council</td>
<td>123</td>
</tr>
<tr>
<td></td>
<td>3.1.5. Interim Conclusion</td>
<td>129</td>
</tr>
<tr>
<td></td>
<td>3.3. Changing Perceptions of ‘Enemy’ and the EU Counter-Terrorism</td>
<td>130</td>
</tr>
<tr>
<td></td>
<td>3.4. External Securitization of Migration</td>
<td>135</td>
</tr>
</tbody>
</table>
3.4.1. Practices Governing the Entry/Admission of Migrants ........................................ 136
3.4.2. Technologized Border Control Practices ................................................................. 145
  3.4.2.1. Inclusions of Biometrics into the EU Passports .................................................. 146
  3.4.2.2. Amendments to the SIS and Introduction of the SIS II ...................................... 147
  3.4.2.3. Passenger Name Records and Advance Passenger Information System .................. 150
  3.4.2.4. Visa Information System ....................................................................................... 154
  3.4.3.5. Establishment of Synergies between Existing and Future Databases .................... 156
3.4.3. Militarized Border Control Practices ........................................................................ 159
3.5. Internal Securitization .................................................................................................... 172
  3.5.1. Internal Surveillance Practices .................................................................................... 172
    3.5.1.1. Amendments to the Eurodac Regulation .............................................................. 173
    3.5.2.2. Intensified Surveillance Against ‘Radicalization’ .................................................. 175
  3.5.2. Integration Practices .................................................................................................. 179
  3.5.3. Removal Practices ..................................................................................................... 189
    3.5.3.1. Expulsion of Long-Term Residents .................................................................... 190
    3.5.3.2. New Exceptions to the Non-Refoulement Principle ............................................ 191
    3.5.3.3. Return Directive ................................................................................................ 197
3.6. Conclusion ..................................................................................................................... 199

4. Securitization of Migration in Germany ........................................................................ 203
  4.1. Historical Overview: The Pre-September 11 period ................................................... 204
    4.1.1. Article 16 of the Basic Law and Liberal Asylum Regime ........................................ 205
    4.1.3. Rise of Refugees and Family Class Migrants ......................................................... 210
    4.1.4. Refugee ‘Crisis’ of 1990s and Asylum Compromise .............................................. 218
    4.1.5. Green Card Scheme and New Citizenship Law: A paradigmatic shift? ............... 223
    4.1.6. Interim Conclusion .................................................................................................. 231
  4.2. The Post-September 11 Period ..................................................................................... 233
  4.3. Changing Perceptions of ‘Terrorism’ and Security Packages ........................................ 236
  4.4. Second Stage of the Voting for the New Immigration Act ........................................... 244
  4.5. External Securitization ................................................................................................ 247
    4.5.1. Practices Governing the Entry/Admission of Migrants .......................................... 248
    4.5.2. Technologized Border Control Practices ............................................................... 253
    4.5.3. Militarized Border Control Practices ...................................................................... 255
  4.6. Internal Securitization .................................................................................................. 257
    4.6.1. Internal Surveillance Practices ................................................................................. 257
      4.6.1.1. National Security Vetting Process and Widened Data Exchange ...................... 257
      4.6.1.2. Ban of Religious Associations and New Grounds for Prohibiting Foreigners’ .... 260
      4.6.1.3. Intensified Surveillance over Mosques and Imams ........................................... 262
      4.6.1.4. Grid Search (Rasterfahndung) ................................................................. 264
    4.6.2. Integration Practices ............................................................................................... 270
      4.6.2.1. Integration Programmes ..................................................................................... 272
      4.6.2.2. Citizenship Practices ......................................................................................... 276
      4.6.2.3. German Islam Conference (DIK) ...................................................................... 283
      4.6.2.4. Regularization Practices .................................................................................... 285
    4.6.3. Removal Practices .................................................................................................. 287
      4.6.3.1. New Grounds for Expulsion ............................................................................. 287
5. Securitization of Migration in Spain ................................................................. 299

5.1. Historical Overview: The Pre-September 11 period ..................................... 299
5.1.1. End of Franco Dictatorship and First Sign of Immigration into Spain .......... 300
5.1.2. Organic Law 7 /1985 .................................................................................... 304
5.1.3. ‘The Situation of Immigrants in Spain: The Basic Lines for the Spanish Immigration Policy’ ............................................................. 309
5.1.3.1. Policy of Integration .............................................................................. 309
5.1.3.2. Strengthening Border Security .............................................................. 312
5.1.3.3. Intensification of Cooperation with Third Countries .............................. 314
5.1.3.4. Modification of the Law on the Right of Asylum and Refugee Status ......... 316
5.1.3.5. Regularization of Irregular Immigrants .................................................... 318
5.1.4. New Border Surveillance Practices and Legislative Frameworks .............. 319
5.1.5. Interim Conclusion ....................................................................................... 327
5.2. The Post-September 11 period ......................................................................... 329
5.3. Changing Perceptions of Terrorism or Continuity with the ETA 11 in the Post-September Period? .............................................................. 332
5.4. External Securitization ...................................................................................... 340
5.4.1. Practices Governing the Entry/Admission of Migrants ............................... 341
5.4.2. Technologized Border Control Practices .................................................. 345
5.4.3. Militarized Border Control Practices ......................................................... 353
5.5. Internal Securitization ...................................................................................... 358
5.5.1. Internal Surveillance Practices ................................................................... 359
5.5.2. Integration Practices ................................................................................... 362
5.5.2.1. Socio-economic Inclusion vs. Integration Programmes? ....................... 365
5.5.2.2. Citizenship Practices ............................................................................ 367
5.5.2.3. Regularization Practices ....................................................................... 371
5.5.3. Removal Practices ...................................................................................... 374
5.5.3.1. Criminality as a Ground for Removal and Fast-Track Expulsion ......... 375
5.5.3.2. Exceptions to the Non-Refoulement Principle ........................................ 378
5.6. Conclusion ...................................................................................................... 379

6. Comparative Analysis: Securitization of Migration in Germany and Spain in a European context ................................................................. 383

6.1. Similarities: Patterns of Convergence .............................................................. 387
6.2. Differences in the Securitization of Migration ................................................ 397

7. Conclusion ......................................................................................................... 413

BIBLIOGRAPHY ................................................................................................. 424

Curriculum Vitae ................................................................................................. 471
LIST OF TABLES

Table 2.1: Brochmann’s categorizations of the mechanisms of migration control.............57
Table 2.2: Analytical Framework for the analysis of the securitization process .............60
Table 2.3: Interviews for the EU case ...........................................................................84
Table 2.4: Interviews for the German case .................................................................86
Table 2.5: Interviews for the Spanish case .................................................................88
Table 4.1: Number of Data Collected for Grid Search.............................................267
Table 6.1: Practices of the Securitization of Migration: EU Case .........................384
Table 6.2: Practices of the Securitization of Migration: German Case ...................385
Table 6.3: Practices of the Securitization of Migration: Spanish Case ....................386
ABBREVIATIONS

EMP European Mediterranean Partnership
ENAR European Network against Racism
EP European Parliament
ETA Basque Fatherland and Liberty
ETUC European Union Trade Union Federation
EU European Union
HRW Human Rights Watch
IGOs Inter-governmental Organizations
IBM Integrated Border Management
ICCPR International Covenant on Civil and Political Rights
IOM International Organization for Migration
IRD Islam Council for the Federal Republic of Germany
IU United Left (Spain)
JHA Justice and Home Affairs
JRC Joint Research Center for the Commission
MAD Military Counter-Intelligence Service
MMS Most Similar Systems
MDS Most Different Systems
NGOs Non-Governmental Organizations
NSOs Non-State Organizations
OECD Organization for Economic Cooperation and Development
PNR Passenger Name Records
PSOE Spanish Socialist Workers’ Party
PP Spanish People Party
RABITs Rapid Borders Intervention Teams
RAF Red Army Faction
SEA Single European Act
SIS Schengen Information System
SIVE System of Exterior Surveillance
SPD German Social Democratic Party
TREVI Terrorisme, Radicalisme, Extremiste et Violence Internationale
UDC Democratic Union of Catalonia
UDHR Universal Declaration of Human Rights
UN United Nations
UNHCR United Nations High Commissioner for Refugees
UNICRI United Nations Interregional Crime and Research Institute
VIKZ Association of Islamic Cultural Centres
VIS Visa Information system
VWP Visa Waiver Programme
ZDN Central Councils of Muslims
ZKA Customs Criminological Office
ZMD Central Council of Muslims in Germany
1. **Introduction**

This research addresses the securitization of migration in relation to terrorism in the post-September 11 period in a European context. At the outset, it should be underlined that the aim, here, is neither to idealize migrants nor to investigate whether migration constitutes a ‘real’ or ‘imagined’ threat. In other words, the research does not intend to offer objectivist claims as to whether (certain group of) migrants threaten ‘European security’. What matter is that how/whether migration has come to be framed and administered as a security threat; whether recent counter terrorism debates have structured the politics of migration; and whether the agendas of these different phenomena have (been) converged in the post-September period. In doing this, first, it develops an analytical framework on the basis of a critical engagement with the theory of securitization, which was originally developed by the Copenhagen School of Security Studies. Unlike the Copenhagen School’s theory focusing on ‘speech acts’ as the vector of the securitization, this research applies a sociological approach to the analyses and understanding of the securitization process through privileging practices over ‘speech acts’.

Second, it seeks to unpack the securitization processes through studying two cases, Germany and Spain, in a comparative and empirical manner alongside the EU level analysis. More precisely, it strives to understand how this process works in different contexts; and thereby problematizes simplistic and straightforward definition and understanding of the securitization. Besides, contrary to the analysis claiming that the September 11 and subsequent terrorist attacks in Madrid and London have given a start to the securitization of migration, it follows a historical and contextual approach through taking into account the pre-September 11 period developments relating to the
security/migration nexus. By doing this, the aim is to explore the impact of the September 11 and following attacks over migration politics in a more comprehensive way and to assess the changes and continuity in the process of the securitization.

1.1. State of the Art and Developing a European and Comparative Perspective on the Securitization of Migration

As regards to the securitization of migration, vast amount of literature has provided significant analyses, which render critical intellectual space and which are going to be utilized much in this research.¹ These works, through mostly undertaking the EU level analysis, seek to understand the transformation of migration policies and discourses in the European integration process. Despite their valuable contributions to the development of theoretical and conceptual frameworks for the analysis of securitization, there is still a gap in the literature. The existing works do not offer clear-cut methodological frameworks, and this hinders the ‘empirical’ application of the securitization theory. Moreover, their exclusive focus on the EU prevents us from understanding how the securitization of migration has developed and been structured in national contexts. Only very limited number of scholars investigate the securitization in member states², let alone in a comparative manner. This research, however, by compiling theoretical insights and premises of this current literature, seeks to offer a Europe-wide scope of research with comparative and case study approaches and to examine systematically the securitization process through building upon a detailed empirical research.

¹ See among others, Bigo (1994) (2000) and (2002); Huysmans (2000) and (2006a/2006b); van Munster (2005) and (2009); Diez (2006); Guiraudan (2001); Ceyhan and Tsoukala (2003); Tsoukala (2005); Baldaccini and Guild (2007); Balzacq (2008); Chebel d’Appolonia and Reich (2008); Givens et al. (2009); and Winterdyk and Sundberg (2010).
² For Germany, see Diez (2006); Diez and Squire (2008) and for Spain, see Fernandez Bessa and Ortuno Aix (2006a); Saux (2007) and Carla (2008). On the other hand, Bourbeau (2008) explores the securitization in France through comparing it with Canada. Kaya (2009) also focuses on the cases of Germany, France, Belgium and the Netherlands in the explanation of the securitization of migration with a special focus on citizenship and integration issues.
To this end, an EU level investigation and a comparative analysis of Germany and Spain will be undertaken. First, the EU provides an important laboratory to explore the dynamics of securitization process. As already put forward by the relevant literature (see ftn: 1), the EU has developed and operationalized wide range of practices, including policies, policy tools, institutional and operational settings, etc., which are believed to integrate the issue of migration into a security framework. In effect, it is widely asserted that the securitization process has developed parallel to the intensification of the EU integration process (see Huysmans 2000 and 2006b; Kostakopoulou 2001/2011; and Bigo 2002). Especially, following the establishment of the Single Market and Schengen Regime, which resulted in the abolition of internal border controls, it is contended that migration has turned into a security issue. This is linked to the assumption that removal of internal borders was to result in a ‘security deficit’, since a Europe without internal borders could be abused and become ‘a haven for criminals and illegal immigrants’ (Karanja 2000: 217).

In a similar vein, as Stalker (2002: 166) argues, ‘from mid-1980’s the countries of the EU became more concerned about their common external frontier and struggled to develop a common policy on non-EU immigrants.’ Restrictive visa policies and databases together with biometrics, stringent asylum procedures, draconian detention and deportation practices, and militarization of border controls are represented as those few among various securitizing practices, which are to administer the issue of migration as a security threat.

Against this backdrop, the September 11 and subsequent attacks in Europe have added new dimensions to these ongoing discussions and prompted the political discourses and academic interests regarding the securitization process. Accordingly, it is asserted that these terrorist events have provided a suitable ground for the securitization of migration.

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3 This view was also reiterated by the interviewees. They pointed to the fact that securitization of migration has been already in the making since the 1980s across the EU (PE₃; AE₁; AE₂; AE₃; AE₄; AG₁; NSOE₁; NSOE₂; AG₂; AG₃; AG₄; NSOE₁₀; BS₁; AS₁; NSOS₂: for the citation of interviews, a special codin system including abbreviations was used, see Chapter 2).
further and, since then, the nexus between security and migration has become more evident. One of the most prominent arguments is that this process has operationalized through the “traversal” between policy areas, convergence of agendas, or the “security continuum”, gloss over the distinctive dynamics of different parts of the political system’ (Boswell 2007: 590). Consequently, migration practices, governing the entry, stay and exit of migrants, have turned into a tool in the fight against terrorism across the EU (Spencer 2007; Leonard 2010a). It is in this specific context, the inclusion of the EU analysis is of utmost importance. More specifically, even though certain migration practices, especially those relating to the admission of long-term residents, internal surveillance of migrants and integration, have been still under the discretion of member states, the legal and institutional Europeanization process in the field has gained momentum since the late 1990s (see Geddes 2003). In particular, visa and asylum are those areas, which have become increasingly subject to this process. Other fields, including family reunification, labour immigration, or irregular immigration have also come to be shaped by the process of Europeanization in recent years. In this context, member states’ practices of migration cannot be properly analyzed without taking into account the impact of EU level developments. However, this does not mean that there is just a ‘top-down’ change induced by the EU. Rather, member states per se are to be influential in this process by carrying their specific concerns to the EU level and relying on collective action in quest of their own interest. In this context, the EU level analysis provides the necessary base how this mutual interaction between the EU and member states takes place in the securitization process. Most prominently, together with the comparative case studies, it sheds light on a number of questions: what is the nature of European influence on member states in the course of the securitization; do member states’ migration practices develop towards a similar shared model and follow a common trajectory as regards to the securitization of
migration particularly in relation to terrorism; or do member states follows a different path of securitization despite the Europeanization in this field?

Secondly, what makes a comparison of the securitization process in member states important is that they serve as a framework to understand how/whether the securitization process has come into being in different (national) contexts; to explore the variations and convergences in the securitized migration; and which factors determine these differences and similarities. More precisely, owing to the ongoing Europeanization process, certain convergences among member states regarding the impact of terrorism on the issue of migration would be observed. On the other hand, with respect to member states’ enduring competences over a number of areas of migration politics, and to their ‘own’ migration dynamics including, among other things, paths and tradition of migration, geographical position, socio-economic features and historical time of the transition, it can be also expected that they might display a number of differences characterizing the changes in migration practices in the light of terrorist threat. Accordingly, a closer look at Germany and Spain will be taken in order to identify the similarities and differences regarding the impact of terrorism on migration practices and ultimately to provide a better and deep understanding on the securitization process. The selection of these countries as comparative partners was done purposefully. More specifically, these two countries represent two-ideal types in Europe. Namely, Germany is considered as a ‘traditional’ or ‘old’ migration country, together with other Northern and Western member countries. In this respect, it is assumed to ‘have “accumulated” relatively larger experience than other European countries with respect to the inflow of foreign nationals’ (Okolski 2009: 4). Whereas Spain, together with other Southern member countries, is defined as a ‘recent’ or ‘new’ migration country as having underwent the transformation in migration pattern in a considerably later time (ibid.) In this setting, such a selection would offer rich insights to
the understanding of the securitization process and a basis for future comparisons among other cases across the EU.

To detail, Germany started to experience significant levels of inward migration in the post-World War II period. Closely related to the ‘painful experience during the Nazi regime’ which persecuted and forced millions of people to leave the country, Germany introduced one of the most liberal asylum regimes in the post-World War II period compared to other member states (see BMI 2008: 136). Besides, Germany’s ‘economic miracle’ resulted in increasing demand for unskilled and semi-skilled labour force, which was lacking in the domestic market in the 1950s. Hence, an open labour immigration policy was encouraged in order to recruit foreign workers under the ‘guest worker system’ through signing bilateral agreements with certain European and non-European countries.\(^4\)

In this context, asylum seeking and labour immigration have become the two main paths of migration into Germany in the post-World War era. However, this liberal stance ceased to exist in the following years. First, Germany imposed recruitment ban and started to pursue a ‘zero immigration policy’ in the face of economic recession stemming from the 1970s oil crisis. Second, it introduced stringent regulations – particularly in the framework of the so-called ‘asylum compromise’ of 1993 - deterring potential asylum seekers as a response to the pressure of raising asylum applications following the end of Cold-War. However, as will be explored in detail in Chapter 4, not only global developments pushed for these restrictive turns; but also, the EU membership and Germany’s own national dynamics can be defined as other decisive factors behind these changes (Prümm and Alsch 2007).

However, despite the introduction of stringent measures to prevent further migration, the number of foreign populations has kept on growing owing to the right to seek asylum and

\(^4\) At that time, the government signed the recruitment agreement with the following countries: Italy (1955), Spain and Greece (1960), Turkey (1961), Morocco (1963), Portugal (1964), Tunisia (1965) and Yugoslavia (1968).
family reunification, both of which are protected by the German Constitution. Within this explicit and tangible transformation of Germany, migration turned into one of the thorny and contentious issues in German politics. For example, Schmidt (1999: 99) states that German government, which opened the door to a large number of migrants since 1950s, when it comes to 1990s, started to claim that ‘immigration of people from alien cultures is not in the national interest as social and political stability are tied to the national homogeneity of the state.’ Most importantly, she further analyzes that migration was presented and interpreted as a security issue and source of socio-economic problems by media and politicians; and the focus was placed on restrictive measures in order to stem further immigration (ibid.). Parallel to this, German officials insisted on the rhetoric of ‘Germany is not a country of immigration’ (Deutschland ist kein Einwanderungsland); a rhetoric which has not corresponded to the rising number of migrants within the country. However, when it comes to early 2000s, this rhetoric as well as the exclusionary stance towards migration was challenged to a certain extent. More precisely, the introduction of Green Card scheme, which opened the door to qualified labour force; the new citizenship law, which softened the conservative approach toward naturalization procedures; and the official calls for a new migration law with a special focus on the issue of integration, are seen as ‘paradigmatic shifts’ in German migration politics (see Schmid-Drüner 2006). Yet, at such a critical juncture, namely, while Germany was in the process of taking these important steps and debating the new migration law, the September 11 and Madrid attacks happened. As argued by several scholars, these events, which prompted the implementation of draconian counter-terrorism measures, directly affected the issues of migration through linking the latter directly to security concerns in general - and terrorism in particular - thereby consolidated the place of securitarian practices vis-à-vis migration (see Diez 2006; Diez and Squire 2008). In this specific context, Germany provides a very
suitable case study to explore the impact of the terrorist attacks on migration practices and to assess the securitization process in a country with a long migration history.

On the other hand, unlike Germany, Spain has started to transform its migration status from emigration to migration only after the mid-1980s. Its democratization process; growing economic prosperity demanding labour force; accession to the EU; closeness to the African countries suffering from socio-economic and political problems; as well as shifts in the routes for irregular immigration in the face of ‘sophisticated’ border control mechanisms imposed by the Schengen system and by ‘traditional’ migration countries, can be counted as the main factors driving this transformation (see Fernandez Bessa and Ortuno Aix 2006b; Calavita 2005; Saux 2007). However, while this transformation was one the way, Spain also started to introduce restrictive practices with a special focus on policing and control of irregular immigration. As widely asserted in the literature on the Spanish migration practices, this move is closely associated with the EU membership and its requirements (see Cornelius 2004; Pinyol 2007; Fauser 2007; Carrera 2009). More specifically, the first immigration law, which was adopted just prior to its accession to the EU in 1985 and was shaped by ‘a restrictive legal framework allowing more control oriented measures and aiming at making the borders more secure and facilitating the procedures of expulsion of irregular immigrants’ (Carrera 2009: 242), reflects the pressure stemming from the EU. From that time onwards, Spain has continuously tightened its migration practices; fortified and militarized its borders; and intensified its cooperation with African countries with the aim of keeping migrants away from its/EU’s territory or facilitating their removal. Besides, as in case of Germany, integration issue has been disregarded for a long time (at least until the 2000s). Again similar to German case, migration has turned into one of the vexed issues on public and political agenda parallel to the raising number of migrants since the 1990s (see Zapata-Barrero and De Witte 2007).
However, contrary to German case, whereby asylum seekers and ‘guest workers’ have been dominating the debate, in Spain, irregular immigration came to be problematized. It has been linked to rise of criminality and interpreted as a threat to public order by politicians and media (Calavita 2005). Especially, the so-called ‘boat people’ trying to enter Spain/Europe by pateras (small fishing boats) and risking their lives in Mediterranean have come under the spotlight both at national and European levels. More precisely, as the southern Spanish borderlands have become European borders, irregular immigration into Spain has become a common concern among the EU member states. Hence, Spain’s fight against irregular migration has been backed significantly by financial and technical assistances from the EU. However, when it comes to the September 11, contrary to other European countries, Spain did not introduce path-breaking legislations directly implicating in its migration practices. It is repeatedly argued that because of the ETA (Euskadi Ta Askatasuna: Basque Fatherland and Liberty), Spain has relied on ‘a large accumulated corpus iuris, product of the experiences with “domestic terrorism”.’ (Saux 2007: 57; see also Jordan and Horsburgh 2006; Macleod 2006). In this context, it is contended that Spain has continued to handle migration issue with the existing framework emphasizing fight against irregular immigration. Moreover, the most paradoxical point underlined in the literature is that even the Madrid attacks, defined as the most brutal terrorist incident in Spanish history, did not lead to practices directly and explicitly linking migration practices to those relating to counter-terrorism (see Carla 2008). On the contrary, despite the emerging securitizing moves into this direction, newly elected government had refrained from such an association. Instead, it put the focus on socio-economic integration of Muslim and all other migrant population in Spain. This picture also makes the analysis of Spanish case and its comparison with Germany relevant. Firs, the examination of Spanish case puts into question the simplistic understanding of the securitization process in the
light of post-September 11 developments. It questions the notion that September 11 and following attacks have securitized migration directly and explicitly in relation to terrorism across Europe. It is equally important that comparing Spain with Germany serves to explore whether the post-September 11 developments have had differential impact on member states regarding the migration/security nexus. Ultimately, the research offers a systemic and in-depth way of approaching the issue of securitization process in a European context.

1.2. Theoretical and Conceptual Background on the Securitization of Migration

Starting from the late 1980s and early 1990s, a heated academic debate has emerged on what the notion of ‘security’ stands for and how to study security questions. More precisely, this debate has been structured along three basic dimensions (see Huysmans 2006a; Fierke 2007). Firstly, perspectives on widening of security studies have entered into the agenda. Scholars started to discuss the scope of security studies, namely which issues, as dangers or threats should be included into security analysis. Here, the main concern is whether security studies should be limited to military threats and war or they should be widened in a way to include non-military issues, ranging from environment, economics, identity to migration (see Krause and Williams 1997; Walker 1990/1997; Dalby 1992; Buzan 1983/1991). Second dimension of this debate is related to the deepening of referent objects (i.e. what is to be secured) meaning that whether security studies should utilize state-centric lenses focusing mainly on ‘security of states and their citizens’ (Huysmans 2006a: 3); or the referent objects should be moved beyond these state-centric approaches and pay attention to the security of wide range of subjects, such as individuals, societies, or humanity in general. Third dimension concerns with the
epistemological and ontological discussions on how to perceive security as well as on the nature of security (e.g. Walker 1990; Shapiro 1992; Der Derian 1993; Wendt 1995; Katzenstein 1996; Buzan et al. 1998). Here the split between objectivist and subjectivist understanding of security has driven the academic polarization and brought the constructivist and deconstructivist approaches to the fore. As Huysmans (2006a: 3-4) argues that:

[The debate] split those supporting the idea that security policy was a reaction to objectively given and/or subjectively perceived threats from those for whom insecurities are an outcome of a political process that transforms phenomenon from non-security questions into security questions. This debate has often been presented as an epistemological debate between positivism and post-positivism, rationalism and reflectivism or epistemic realism and relativism. But this debate cannot be reduced to its epistemological dimensions. At least as important as was disagreement over the ontological status of insecurities or threats, that is the nature of their factuality. Conflicting understandings of the ontological status of language and knowledge in social relations and of how to conceptualize the factual nature of threats split more objectivist approaches from its deconstructivist and constructivist challenge.

In other words, these discussions have made the division between the traditional security studies, namely realist and neo-realist on the one hand and critical security studies on the other hand much more visible. While the former argues for narrowing security studies with exclusive focus on state-centric and military issues (e.g. Walt 1991) and follows an objectivist understanding with regard to security; the latter with various theoretical orientations supports a critical engagement with this narrow understanding (e.g. Ullman 1995; Buzan 1983 1991; Buzan et al. 1998; Krause and Williams 1997; Fierke 2007). On account of these different understandings of security, Fierke (2007) goes one-step further and provides three broad positions on the relationship between politics and
security. These are: security as a property; security as social construction; and security as practice (ibid. 5). Security as a property corresponds to the rationale characterizing the traditional security studies. On the other hand, the other two positions, as will be detailed in the following pages, pertain to the critical security studies.

In accordance with the goals and interests of this research, the following section will provide a review on key theoretical assumptions informing the securitization of migration. Firstly, conceptualization of security by traditional security studies and its linkage with the issue of migration will be briefly explored. Second, a more detailed analysis of critical security studies will be undertaken. Specifically the Aberystwyth, Copenhagen, and Paris Schools will be addressed. Finally, following a critical engagement with each of them, what the securitization of migration stands for in the framework of this research will be detailed.

1.2.1. Traditional Security Studies

Traditional security studies, referring to mainly realism and neo-realism, are defined as problem solving theories, since their approach accepts ‘the world (or situation) it inherits, seeks to make it work, and in so doing contributes to replicating what exists’ (Booth 2005: 4; Cox 1981). Even though realism’s philosophical orientation dates back to the writings of Thucydides, and Machiavelli, it emerged as a sub discipline of International Relations scholarship after the World War II and became a dominant school for the analysis of security during the Cold War years. According to the traditional security thinking, security studies are ‘the study of the threat, use and control of military force’ (Walt 1991; Schultz et al. 1993). Likewise, causes of war and alliances as well as policy-oriented research on military and other warlike threats are defined as the focus of security analysis (Nye and Lynn Jones 1988:6). In this context, security refers to freedom from
military threat and protection of sovereignty; it points to the national security and survival of state in an anarchic environment. Hence, in traditional security studies, the essence of the concept of security is not problematic; simply, ‘a theoretical – empirical study of causes of war is relevant […] the concept of security is not present in the analysis as such’ (Waever 2004: 15).

In this context, as already mentioned, the position of ‘security as a property’ fits their framing of security in objectivist terms. As Muller (2011: 94) remarks, this position implies that ‘the state was or was not secure according to clearly defined threats to security, such as nuclear proliferation, the absence of the balance of power, and so on.’ Most importantly, this approach draws a hard line between international and domestic politics. To be more precise, international arena is characterized by anarchy and power struggles; and these are to be the sources of threat to security of states and by extension to their citizens; on the other hand domestic realm is marked by ‘order, which is preserved by the states’ (Williams and Krause 1997: 40; also see Waltz 1979). This distinction takes the states as unitary actors and renders the ‘domestic affairs of states unproblematic when talking about their international behavior’ (Tickner 1992: 56). Moreover, it signifies a timeless wisdom prioritizing anarchy as a constant and unchanging systemic constraint over states’ behavior (Fierke 2007: 16; see also Crawford 1991). According to critics of traditional security studies, this ahistorical view or negligence of contextual factors relate to the goal of complying with the requirements of ‘science’ through advocating positivist and objectivist understandings and generalizations transcending time (Fierke 2007: 17). As elaborated by Kolodziej (1992: 431), ‘in the process of adapting this timeless wisdom to the requirements of science, rich and historically embedded analyses, from Thucydides to Hobbes, were cast in sound-bite form and reduced to a simplified set of assumptions defining security dilemmas’ (cited in Fierke 2007: 17). This inclination clearly finds its
expression in the words of a well-known realist scholar, Hans Morgenthau (1978) stating that ‘a scientific theory is a system of empirically verifiable, general truths, sought for their own sake’ and the possibility of developing a rational theory, however imperfectly and one-sidedly, these objectives laws’ (cited in Onuf 1989: 7).

As regards to the migration/security nexus, it is hard to find out elaborated and comprehensive analysis in traditional security studies. This is closely related to the fact that traditional school of security studies have mostly devoted their attention to the ‘high politics’ of war and military-like threats, and have not placed emphasis on the issue of migration, - which is regarded as a part of ‘low politics’ - in their analysis. On the other hand, those attempting to understand migration/security nexus ‘attuned to notions of structural anarchy and material interest’ and ‘have chosen to present an alarmist picture of the security consequences of the movement of people, i.e. the disorder produced by migration’ (Bourbeau 2008: 60). In other words, they point to the ‘coming anarchy’ allegedly resulting from mass migration (Huntington 2004; Kaplan 1994). Similarly, they also argue that uncontrolled movement of people may give rise to internal and international security conflicts (Weiner 1995: 183-218). In this context, this “national security” model of security [centering] on the defence of the state’s borders and institutions from external aggression, invariably seen as somehow linked to other states’ is to make ‘control of immigration as a central tool for the protection of national security’ (Moeckli 2010: 462-463).

1.2.2. Critical Security Studies

Starting from the late 1980s, but especially with the end of the Cold War, the hegemony of traditional security studies have been challenged in the face of the ‘transformation in Western political agendas ’ (Huysmans 2006b:15). In other words,
global developments with their transnational effects made the limits of traditional security studies in explaining international politics more apparent. Rise of ethnic, religious or identity related conflicts within states – e.g. Yugoslavia, Rwanda, Somalia-, national liberation movements, economic crisis and ecological devastations have brought the light to the drawbacks of traditional school of security studies, as they limit their analysis to military conflict and nuclear deterrence between the two super powers in a polarized world (Tickner 1992: 32). Besides, the deepening European integration process, which has challenged the traditional notion of state, sovereignty and border, has also induced security scholars to move beyond state-centric and military-focused conceptualization of security. In this context, what emerged is the so-called critical security studies or critical approaches to security. Even though critical security studies is composed of different approaches with different theoretical orientations, and this prevents them from ‘constituting a uniform and homogenous group of ideas’, ‘there are several attempts to cluster [them] in a meaningful way under the title critical security studies’ (Benam 2011: 76). One recent example is the categorization brought forward by the Collective calling themselves Critical Approaches to Security in Europe (hereafter: CASE). CASE is composed of different groups working on security and providing an elaborated analysis on the changing conceptualization of security with a special focus on Europe. Inspired by Waewer’s (2004) classification, it categorizes critical security studies under three schools: Aberystwyth, Copenhagen and Paris (see CASE 2006). Particularly, the latter two schools have made enormous contributions to the literature analyzing migration/security nexus. This research takes the securitization theory of the Copenhagen School as the main departure point, but locates itself within the lines of Paris School of Security, as it aims to understand the securitization process from a sociological perspective through focusing on practices. Hence, before detailing the approaches of the Copenhagen and Paris Schools and engaging with them critically, a
closer look at the Aberystwyth will be taken in order to make critiques against traditional security studies more tangible and to complete the normative underpinnings of this research.

1.2.2.1. Aberystwyth School

The Aberystwyth School, called also Welsh School, has drawn inspirations from neo-Marxist thinkers of Frankfurt School theorists, and has endorsed radical breaks with the long-lasting hegemony of the traditional notion of security. Cox (1996: 206) asserts that contrary to traditional school of thought, their approach ‘does not take institutions and social and power relations for granted but call them into question by concerning itself with their origins and how and whether they might be in the process of changing.’ They do not accept that system and actors are pre-given. Instead, they point to the social construction of these very ‘realities’. In this setting, for the Aberystwyth School, there is no exact definition of security; namely, security is essentially a contested and derivative concept (Booth 2005; Smith 2005). Therefore, following Fierke (2007), ‘security as social construction’ characterizes their position vis-à-vis the notion of security. This position is against the positivist and objectivist understanding of security pioneered by the traditional security thinking. In particular, they counter the conceptualization of security through ‘fixing the meaning of “objective” scientific concepts in order to test them against the “real” world’ (ibid. 196). Yet, this does not mean that their approach ignores material reality or assumes the fabrication of security threats. Instead, what the Aberystwyth School argues that political understanding of these very ‘realities’ of security are navigated through different theoretical or political point of views as well as through different cultural maps, contextual and historical structures (Fierke 2007; see also Booth 2005: 13.) Parallel to these arguments, Booth (2005: 3) contends that ‘critical approaches to international
relations and strategic studies have sought to challenge realism’s conceptualizations of the world not by rejecting the idea of real, but by claiming access to a more sophisticated realism.’ On such a backdrop, they criticize the equation of the notion of security with some ‘objectivist’ concerns, such as freedom from military threat or survival. For them, security implies emancipation. What they mainly mean with emancipation is:

[T]he theory and practice of inventing humanity, with a view to freeing people, as individuals and collectivities from contingent and structural oppressions. It is a discourse of human self-creation and the politics of trying to bring it about. Security and community are guiding principles, and at this stage of history the growth of a universal human rights culture is central to emancipatory politics. The concept of emancipation shapes strategies and tactics of resistance, offers a theory of progress for society, and gives a politics of hope for common humanity (Booth 2005: 181; see also Alker 2005)

In promoting emancipation, they advocate a ‘critical’ reflection widening and deepening of security agenda in a way to include other non-statist security concerns, such as poverty, environment, identity, patriarchy, or racism towards minorities. It is argued that overemphasizing state-centric military security is to contribute to the ‘militarization of international relations’, which, in turn, might further ‘global insecurity’ (Ullman 1995: 15). However, while calling for a broadened understanding of security by challenging state-centric and militaristic conceptualizations, they do not aim to deal with all problems within strict securitarian logic nor they follow an unlimited widening. More precisely, the intention is not to ‘turn every political problem into a security issue (“securitizing” politics); on the contrary […] to turn every security issue into a question of political theory (and therefore to political problems] (what might be called politicizing security)’ (Booth 2005: 14). Hence, when they are supporting the widening debate, they pay attention to the negative side effects of this process. This is mainly because, for them, framing an issue through security language gives the way for different regimes of truth and different
political solutions. Even utterance of the term of ‘security’ involves the risk of reinforcing the security problematic in a certain area (Huysmans 1999: 2). As argued by Huysmans (1999) writing and speaking on security always provides room for a fascist mobilization owing to the influence of academic studies and/or power of knowledge over public and politics. In other words, the knowledge produced through utterance of security language is open to the different interpretations and has a performative and constructive role. What this performative role is that the ‘[use of security language] can change the understanding of a problem (Huysmans 2006a: 25). In a similar vein, as put it by Tekofsky (2006: 1) with a reference to the EU level developments:

[...] perceptions determine policy and law making. Perceptions thus lead to legal facts, are based upon these facts and create a framework of reference, a view of the world that reflects and determines at least in part our dealing with it. Policy and rules in turn influence people’s lives in a very real way. It is therefore important to analyze the arguments and measures that are produced in the European political discourse on security and migration.

In line with these concerns, it is asserted that security should not be seen as a ‘good’ thing or as a desirable goal; indeed, for the Aberystwyth School, one’s security is achieved at the cost of other’s security and the concept of security has always conservative connotations. Therefore, the Aberystwyth School cannot be defined as the supporter of unlimited or unconscious widening of security agenda; rather as a moral and ethical critical stance towards the widening debate and as an advocator of politicization rather than securitization.

When it comes to the migration issue, these critiques have become more relevant. In particular, as already mentioned, especially the distinction between international and domestic realm, the emphasis on sovereignty of the state and national security as the main referent objects in the approach of traditional security studies, have crucial impacts over...
migrants and for the notion of free movement of people. As Williams and Krause (1997: 40) put it, the main logic that underlines the traditional approach is that:

[t]he security of citizens is identified with that state, and, by definition, those who stand outside it are threats, whether potential or actual…The neo-realist vision of security effectively makes it synonymous with citizenship. Security comes from being a citizen, and insecurity from citizens of other states. Threats are directed toward individuals qua citizens (that is, toward their states), and the study of security accordingly strives to mitigate these threats through concerted action by the representatives of the citizenry – the state leaders.

Furthermore, Giddens (1985: 259) argues that the legacy of national sovereignty calls for an approach that each ‘nation’ is in possession of right to control over its territorially bounded community and only those, namely citizens of the state, have the right to involve in this political community; and this framing of the linkage between national/territorial sovereignty has been solidified as the ‘natural political condition of humankind’. In this setting, according to proponents of Aberystwyth, traditional security understanding, which takes state as the protector of its citizens with a legitimate right to control over its borders for granted and frames the distinction between citizens and non-citizens in security terms, limits the scope of criticism over undemocratic practices of states. Especially, for them, it is neglected that states can be also a source of insecurity for their own citizens. This is clearly reflected in case of refugees who are persecuted by their own states and therefore, are forced to leave their ‘home’ country. Likewise, states can threaten human security, ‘where migrants, gypsies, minority nations, and indigenous peoples, among others, do not enjoy the protection of the rule of law or barred from enjoying the political and other rights that full members of the community already’ (Linklater 2005: 116).
1.2.2.2. Copenhagen School of Security Studies

The so-called Copenhagen School also emerged out of the dissatisfaction with the traditional conceptualization of security among a group of scholars working at the Copenhagen Peace Research Institute. Buzan and Waever, - the two main protagonists of the Copenhagen School, are the supporters of widening and deepening of security studies in a way to include wide range of issues and referent objects to the domain of security studies. Most importantly, an important departure point of their approach, which makes them more akin to the Aberystwyth School, is their emphasis on the social construction of security vis-à-vis the objectivist understanding of security characterizing the traditional school of security studies. Yet, on the other hand, they integrate certain basic premises of traditional thinking into their analysis. In particular, they do not totally disregard the issues of state and military. Rather they identify state as an important referent object and continue to focus on military threats along other security concerns located in different sectors, including societal, environmental, political and economic. Secondly, similar to traditional security studies, security refers to freedom from threat (Waever 1993: 23) and is related to the ‘survival’ in their approach (Buzan et al. 1998: 21). The following epigraph from their path breaking work, titled People, States and Fear: The National Security Problem in International Relations, clarifies their stance in comparison to the Aberystwyth School (1998: 35):

The analyst in [Aberystwyth School] takes on a larger burden that the analyst in our approach: he or she can brush away existing security constructions disclosed as arbitrary and point to some other issues that are more important security problems. Our approach links itself more closely to existing actors, tries to understand their modus operandi and assumes that future management of security will have to include handling these

5 The Copenhagen School's approach is built upon three main areas: 1) securitization, 2) sectors, 3) regional security complexes (Waever, 2003: 7). Yet, as stated by McDonald (2008: 582) ‘the latter are ultimately deemed significant for the broader theory as sites for securitization dynamics and practices.’
actors...Although our philosophical position is in some sense more radically constructivist in holding security to always be a political construction and not something the analyst can describe as it ‘really’ is, in our purposes we are closer to traditional security studies, which at its best attempted to grasp security constellations and thereby steer them into benign interactions. This stands in contrast to the ‘critical’ purposes of [Aberystwyth School], which points towards a more wholesale refutation of current power wielders.

Furthermore, despite their widener stance, especially Buzan is opposed to the unlimited broadening of security agenda. He argues that such a stance ‘opened the door too wide and left little distinction and therefore little analytical purchase for the concept of security’ (Diez and Huysmans 2007: 5). Wæver also acknowledges this risk and asserts that the main drawback of the post- Cold War security analysis is the inability to identify specific criteria in order to prevent everything from being defined as security issues. For him, this problem could call for ‘mobilization of state support’ to a wide range of areas (Buzan et al. 1998: 4). Yet, he further argues that turning to traditional analysis is also not an answer to handle this problem. What they bring forward to overcome these risks is:

[to explore] the logic of security itself to find out what differentiates security and the process of securitization from that which is merely political. This solution offers the possibility of breaking free from the existing dispute between the [widening and narrowing security studies] (ibid.)

Following, the Copenhagen School defines the securitization as the extension or intensification of politicization; it is a ‘more extreme version of politicization’ (Buzan et al. 1998: 23). More specifically, an issue is

[securitized when leaders (whether political, societal, or intellectual) began to talk about them and to gain the ear of the public and the state – in terms of existential threats against

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6 Although securitization is one-step further of politicization, they are differentiated on the basis of the degree of state or political control in the theory of Copenhagen School. Politicization is a way of making an issue open to public debate depending on the choice, and leads to taking responsibility for these issues in the political sphere unlike those which cannot have different meanings, such as ‘law of nature’ or should not be dealt under the political control, like ‘free economy, the private sphere, and matters for expert decision’.
some valued referent objects. [...] Securitization can thus be seen as a more extreme version of politicization. It is the intersubjective establishment of an existential threat with a saliency sufficient to have substantial political effects. In theory any public issue can be located on the spectrum ranging from non-politicized (meaning that the state does not deal with it, and it is not in any other way made an issue of public debate and decision; through politicized (meaning that the issue is part of public policy requiring governmental decision and resource allocation or more rarely some other form of communal governance); to securitized (meaning that the issue is presented as an existential threat requiring emergency measures and justifying actions outside the normal bounds of political procedure). In principle, the placement of issues on this spectrum is open; depending on circumstances any issue can end up on any part of the spectrum (ibid. 23-24).

To clarify this definition, it is necessary to elaborate which theoretical background has endorsed their theory of securitization. Borrowing from the work of Austin\(^7\), securitization is the successful construction of an issue as an ‘existential threat’\(^8\) to the designated referent object through ‘speech acts’ of securitizing actors, which justifies extraordinary security policies - e.g. using conscription, secrecy, and other means only legitimate when dealing with ‘security matter’ (Buzan et al. 1998/1993; Waever 1995/2000). For Waever, what is of utmost importance in this process is the securitizing move; a specific act of articulating security (Diez and Huysmans 2007: 5). This move is closely based upon the performative power of the language. In other words, by uttering the wording of security, existing state of affairs may be changed. To put it differently, for Waever (2003: 10),

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\(^7\) As spelled out by Austin, according to the ‘speech act theory’, certain statements do more than just merely describe the given reality and these situations cannot be judged as false or true. In other words, these utterances realize a specific action, namely they do things – they have performative power as opposed to just being constatives, which simply describe certain state of affairs, therefore, which can be falsified or verified (see Austin 1962/1970 and 1971).

\(^8\) Waever argues that ‘existential threat can only be understood in relation to the particular character of the referent object in question...The essential quality of existence vary greatly across different sectors and level of analysis; therefore, so will the nature of existential threats’ (Buzan et al. 1998: 22).
the distinguishing feature of securitization is a specific rhetorical structure (survival, priority of action and urgency), because, if the problem is not handled now, it will be too late, and we will not exist to remedy our failure. This can function as a tool for finding security action in sectors other than the military-political one, as in the case of environment or migration.

Here, pointing out the traditional distinction made by Wolfers (1962: 151) between approaching security objectively (there is a real threat) and subjectively (there is a perceived threat); the Copenhagen School argues that drawing such a distinction is not an easy task to be accomplished. Namely, defining an issue as a ‘real’ threat necessitates objective criteria and no theories could provide such a framework. Moreover, even if such kind of ‘objective’ criteria were achieved, again, it could not solve the problem of ‘subjectivity’. This is because, according to the Copenhagen School, different entities have different ‘thresholds for defining threat’ (Buzan et al. 1998: 30). For instance, the amount of foreign population, which is believed to constitute a threat, varies across different entities. In line with these arguments, Waever (2000: 251) details their approach with the following words:

In contrast to the standard perspective of security studies, where it is taken for granted that we are ultimately talking about security ‘out there’ which exists independently of our putting it into security terminology, the speech act perspective claims that an issue becomes a security issue by the securitizing act. There is accordingly no way to sort out what are ‘really’ security issues, and therefore it is always a choice to treat something as a security issue (ibid.)

In this context, what constitutes ‘the exact definition and criteria of securitization’ is determined through intersubjective process whereby ‘a shared understanding of what is to be considered and collectively responded as a threat’ is constructed by ‘speech acts’,
discursive practices (ibid. 26). The study of securitization, therefore, builds upon the analysis of discourses and political constellations.

However, not every act of discursive production of security, namely securitizing move, results in successful, politically effective securitization. ‘Successful securitization is not decided by the securitizer but by the audience of the security speech act’ (ibid. 31). More specifically, as long as ‘significant’ or ‘certain’ amount of audiences accepts the issue in question as an existential threat, we can talk about the success of securitization process. By the way of this acceptance, securitizing actors get the permission to break rules; they move an issue from the bounds of ‘normal politics’ to the sphere of ‘security politics’ and thereby invoking ‘politics of exception.’ In this respect, the Copenhagen School follows a Habermasian understanding of modern politics (Diez and Huysmans 2007: 6; Huysmans 1998; Williams 2006), which presupposes the determinant role of democratic deliberation in a transparent public sphere, the constitution of active citizenship, and the rule of law in the formation of modern societies (Habermas 1989/1992 and 1996). Securitization opens a space for circumventing these founding determinants of modern politics and amounts to a limited public space, unaccountable bodies, and curtailment of the rule of law, which are fed by the constructed ‘sense of urgency.’ Most worryingly, this transformation forecloses alternative policies and marginalizes criticisms against exceptional measures. Last but not the least, Waever (Buzan et al. 1998: 27) argues that ‘securitization can be either ad hoc or institutionalized. If a given type of threat is persistent or recurrent, it is no surprise to find that the response and sense of urgency become institutionalized.’

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9 They also add that ‘Accept does not necessarily mean in civilised, dominance-free discussion; it only means that an order always rests on coercion as well as on consent. Since the securitization can never only be imposed, there is some need to argue ones’s case’ (Buzan et al. 1998:25).
When it comes to the securitization of migration, the Copenhagen School investigates it under societal sector\textsuperscript{10}. Societal security refers to security of collectiveness and their identity, especially ethno-national identity and acts in the context of antagonistic friend/enemy relations.\textsuperscript{11} A societal insecurity emerges when a ‘potentiality’ or ‘development’ is defined as a threat to the survival of a designated community and its identity (Buzan et al. 1993: 119). More specifically, migration is viewed and/or represented as a threat to societal security, when\textsuperscript{12}

X people are being overrun or diluted by influxes of Y people; the X community will not be what it used to be, because others will make up the population; X identity is being changed by a shift in the composition of the population (e.g., Chinese migration into Tibet, Russian migration into Estonia (ibid.121).

In this context, application of the securitization theory to the issue of migration follows as such: migration can be designated as an ‘existential threat’ to societal security/identity, through ‘speech acts’ of certain actors, e.g. politicians, media, public, and if this securitizing move is accepted by a ‘significant’ or ‘certain’ amount of audiences, extraordinary measures, which were previously not ‘legitimate’, can be put into place.

Here, as pointed out by various scholars, a very vague definition of identity is deployed when discussing the concept of societal security (see Theiler 2003). Most importantly, Buzan et al. (1993) underspecify which measures characterize this securitization process;

\textsuperscript{10}Societal security differs from social security. Social security is related with individuals and mostly dominated by economic concerns (Buzan et al. 1998:120).

\textsuperscript{11}Huysmans also states that societal security relates to mainly those threats to cultural identity rather than state sovereignty (Huysmans 1999: p.22)

\textsuperscript{12}The other two sources of threats to the societal security are defined as:

\textit{‘Horizontal competition} – although it is still X people living here, they will change their ways because of the overriding cultural and linguistic influence from neighbouring culture Y (e.g., Quebecois fears of Anglophone Canada and, more generally, Canadian fears of Americanization).

\textit{Vertical competition} – people will stop seeing themselves as X, because there is either an integrating project (e.g., Yugoslavia, the EU) or a secessionist “regionalist” project (e.g., Quebec, Catalonia) that pulls them toward either wider or narrower identities. Whereas one of those projects is centripetal and the other centrifugal, they are both instances of vertical competition in the sense that the struggle is over how wide the circles should be drawn or rather – since there are always numerous concentric circles of identity – to which give the main emphasis’ (Buzan et al. 1998: 121).
but, they still list certain responses that may be invoked against ‘threat’ stemming from migration. These responses may be conducted by society or by state and institutionalised within the policy framework. Or they can be offensive and defensive (Wæver 1993: 191). Offensive responses of society are to be in the form of violent responses to or racist attacks on migrants. Or states impose restrictive and police oriented practices. On the other hand, as defensive responses, society can develop a more tolerant approach and state supports ‘integration’ projects to minimize ‘threat’ arising from presence of migrants. In case of integration projects, dominance of host societies is preserved through creating a ‘common culture’ by mobilizing ‘all of the machineries of cultural reproduction (e.g. schools, churches, language rights)’ (Buzan et al. 1998: 122). However, these defensive strategies could not minimize the securitization of migration; even sometimes they could reinforce this process and exclusion of migrants. This is mainly because the defensive strategies are also related with the preservation and enhancement of a ‘reified’ societal identity in the face of alleged ‘threat’ emanating from ‘foreign influences’. In other words, referring to the conceptualization of societal identity as homogeneous, Doty (1998: 78-79) further elaborates that ‘during times when there is no perceived threat, homogeneity, however illusionary, is often taken for granted. It is during times of crisis, such as movements of people who are seen as “different” […] that the problematic nature of this taken for granted homogeneity becomes apparent’

Numerous works have been influenced by the securitization theory of Copenhagen School when analysing migration/security nexus especially in the context of the European integration process\(^\text{13}\). Undoubtedly, Wæver and Buzan have introduced crucial intellectual

\(^{13}\) See among others, Bigo (2000) and (2002); Bigo and Guild (2005); Bigo and Walker (2002); Diez (2006); Huysmans (2000), and (2006a/2006b); Van Munster (2005) and (2009); Guiraudon (2001) and (2003); Guild (2005b); Sasse (2005); Ceyhan and Tsoukala (2003); Tsoukala (2005); Guzzini and Jung (2003); Apap and Carrera (2004); and Boswell (2007). Besides, their theoretical framework has been applied to other areas, such as to analyses of state foreign policy behavior (Abrahamsan 2004), to minority rights (Roe 2004), to transnational crime (Emmers 2003) and HIV/AIDS (Elbe 2006).
space to explore the discursive construction of particular issues as security threats. However, as the following sections will illustrate their theory of the securitization has also become subject to increasing range of criticisms.

1.2.2.3. Paris School of Security Studies

The Paris School of Security Studies was initially associated to the academic journal *Cultures et Conflits* and drew particular inspiration from the writings of the Foucault and Bourdieu. Later, its approach to security has been followed and refined by scholars applying a sociological approach to the securitization process. Hence, currently, ‘the works of the researchers associated with the Paris School had varied disciplinary [as well as geographical] locations […] and interacted with experts in areas broadly covered by internal security’ (CASE 2006: 449). Even though these scholars have taken the securitization theory of the Copenhagen School as a starting conceptual tool, and have also ‘developed a social constructivist intervention’ in security studies (Diez and Huysmans 2007: 8), they have criticized and revised it in line with their own analytical and theoretical orientations.

Bigo, one of the protagonists of the Paris School, and his collaborators argue that the Copenhagen School, through analyzing the securitization as a speech act, ignores everyday routine securitization practices and underestimates respectively the role of power in this process (see Diez and Huysmans 2007). For Bigo (2002/2005), not the discursive practices or speech acts, but security technology, professional security knowledge and bureaucratic practices are the driving forces behind the securitization processes. Here, one important point needs to be clarified is that the Paris School’s approach toward discourse has different connotations than that of the Copenhagen School. The latter conceives the discourse or speech act narrowly and restricts it to the linguistic moves, which are believed
to have ‘capacity to structure and transform social and political relations’ (Diez and Huysmans 2007: 12). On the other hand, the Paris School follows a Foucaultian understanding of discourse meaning that discourses come into being through the exercise of power, and create a specific economy of ‘truth’ or ‘knowledge’ (Foucault 1980: 93) More precisely, according to Foucault, in any society there are manifold relations of power which permeate, characterize, and constitute the social body and these relations of power cannot themselves be established, consolidated, nor implemented without the production, accumulation and functioning of discourse. There can be no possible exercise of power without a certain economy of discourses of truth, which operates through, and relying on this association. We are subject to the production of truth through power and we cannot exercise power except through the production of truth (ibid.). Hence, the production of truth, or the creation of knowledge through discourse results from the exercise of power, and this process constitutes ultimately the power/knowledge nexus. Foucault further argues that ‘we are also subject to truth in the sense that in which it is truth that makes the laws, that produces the true discourse which, at least partially, decides, transmits and itself extends upon the effects of power’ (ibid. 94). Drawing on these accounts, for the Paris School, professional security agencies depending on their power positions, have the capacity to securitize an issue through the knowledge they produce and through the technologies they use. Most prominently, this Foucaultian stance, which characterizes the modern politics with multiple and highly differentiated technocratic processes (Dean 1999; Bratich et al. 2003) differs the Paris School from the Habermasian conceptualization of democratic politics in Copenhagen School (Diez and Huysmans 2007). According to Bigo, not the democratic public deliberation, but highly secretive, decentralized, untransparent and private world of bureaucratic bodies marks the politics as well as securitization (Bigo 2002; Olsson 2006; Bonditti 2004; Huysmans
2006a/2006b). Hence, in contrast to the Copenhagen School’s securitization, ‘politics of exception’ is not a central issue in their approach. Indeed, ‘the politics is already fully exceptional, i.e. administrative, technical governance’ in view of Bigo (Diez and Huysmans 2007: 9). What matters is that technocratic practices invoke a ‘politics of unease’ – which is not framed through emergency situation, but which may distribute and fabricate fear, and in turn justify certain governmental practices (e.g. ID cards, databases) (Bigo 2002). Referring to the current practices governing the issue of migration in the EU, Bigo argues that interpretation of migration through a security prism results from

the creation of a continuum of threats and general unease in which many different actors exchange their fears and beliefs in the process of making a risky and dangerous society. The professionals in charge of the management of risk and fear especially transfer the legitimacy they gain from struggles against terrorism, criminals, spies, and counterfeiters toward other targets, most notably transnational political activists, people crossing borders, or people born in the country but with foreign parents (ibid. 63)

This understanding makes an important point much more apparent. That is; the central element in the process of the securitization is ‘not the constitution of crisis situations and the introduction of emergency measures but rather the institutional and discursive intervening of different policy areas by means of applying routines, institutionalized knowledge, and technologies to the regulation of these areas’ (Diez and Huysmans 2007: 9-10). Hence, migration is securitized by linking it to a general context of unease defining and administering phenomenon as security issues. Such a context justifies the introduction of certain bureaucratic and technological practices, e.g. discriminatory visa policies, surveillance practices based on extensive databases or increasing role of police and intelligence bodies in the field of migration. Closely related to this, focusing on relations between specific professional groups and structuring effects of technologies allows this approach to study the securitization process transnationally, unlike the
Copenhagen School approach, which is much more limited to the national sphere. In this context, the Paris School, therefore, ‘frees sociologies of insecurity from having to start from a domestic/international or internal/external divide’ (Diez and Huysmans 2007: 9). For the Paris School, ‘these divisions only crop up in so far they are empirically structuring the security field. As a result the functioning and relevance of internal/external security or policing versus defence can be an object of analysis rather than a taken-for granted conceptual or disciplinary divide’ (ibid.; see also Bigo 2000/2001 and 2007; Olsson 2006).

Against this backdrop, it can be safely argued that the Paris School offers a productive analysis of securitization through emphasizing technocratic-based securitization, which develops outside the realm of public space and free from a taken-for granted external/internal divisions. They also challenge the view of the Copenhagen School, which assert that ‘securitization can be studied directly through the study of discourse and political constellations’ (Wæver 2003: 11). Instead, they draw the attention to the role of practices in the securitization and thereby promoting the position of ‘security as practice’ against the pure constructivist approach of the Copenhagen School. Besides, unlike the Copenhagen School, which takes the role and legitimacy of the state as granted, the Paris School calls for a more critical engagement with these notions, sovereignty, borders and reification of identities and cultures. Similar to the arguments of the Aberystwyth School, Bigo (2005: 49) remarks that:

It is taken for granted that the state has the right to control its borders and to differentiate between its citizens and foreigners, and to treat them differentially. The definition of State through territory, population and administration captures our imagination. The monopolization of people by the state is considered its right opposed and superior to the right of individual to move freely. Thus everything is already said. Frontier controls are a technical measure which needs to be enforced, not a political choice.
So, rather than accepting the assumptions on state and its role in the field of migration, the Paris School questions the legitimacy of this role, ‘the moral authority of states; the belief that the state is and should be guardian of people’s security’ (Williams and Krause 1997: 106). Their conceptualization of the securitization has also prompted significant amount of literature particularly on the securitization of migration. These works have opened up new discussions on the Europeanization of the logics of control, surveillance of people moving beyond national borders, and the creation of a transnational professionals (such as liaison officers of different member states) and technologies (e.g. databases)¹⁴. Yet, as will be detailed, their approach needs to be refined and complemented by others works applying a sociological approach to the understanding of the securitization and not strictly limiting their approach to the technocratic renderings of the security/migration nexus.

### 1.2.3. Critiques of Existing Theories

The previous analysis demonstrated that all schools have offered fundamental insights into the security studies in general and migration/security nexus in particular. However, all suffer from certain drawbacks that raise normative, analytical, and methodological problems.

First, state centric and militaristic conceptualization of security in traditional security studies does not offer a critical engagement with the securitization of migration. More precisely, far from giving a precise methodology to be followed in order to unpack how/whether migration has come to be dealt with as a security issue; their approach treats migration as an objective threat and reifies the securitarian discourses and practices. In this context, what Bourbeau (2008: 60) argues is that ‘The structural deterministic

¹⁴ See, Bigo and Guild (2005); Huysmans (2000), (2006a) and (2006b); Aradau (2004); van Munster (2009); Bonditti (2004).
scholarship that underlines the alarmist point of view [in traditional security studies] constitutes an uncertain foundation for theorizing about the migration-security nexus, despite the fact that some politicians have found the alarmist statements attractive’.

Second, the Aberystwyth School has opened a new horizon in the security studies by challenging the orthodox premises of traditional security studies. However, their approach also suffers from certain limitations when analyzing migration/security nexus in an empirical and analytical way. As Waever (2003) notes that, they are not dealing with the concept of security as such nor providing a consistent methodological approach to explore how a certain issue is constructed as a security threat; rather they focus on construction of this or that. Likewise, as Benam (2011: 82) puts it proponents of the Aberystwyth School ‘build their arguments upon the existing theories of International Relations and do not resort to other disciplines such as sociology’. In this context, this lack of reference to a more sociological approach hinders the utilization of their theoretical stance in explaining how migration has turned into a security question. However, in the course of this research, their salient critiques vis-à-vis traditional notions of security will be dwelled upon in order to problematize and deconstruct current regimes of truth informing migration/security nexus.

On the other hand, the Copenhagen School’s conceptualization of security and especially their theory of securitization ‘offered a “middle ground” in security studies; it widened the concept of security beyond military; but it also provided a boundary between securitized and non-securitized matters, and so retained the analytical utility of the concept of security itself’ (Diez and Huysmans 2007: 1). Moreover, it is asserted to provide ‘one of the most innovative, productive, and yet controversial avenues of research in contemporary security studies’ (Williams 2003: 551). However, their theory of securitization has also
become focus of increasing range of criticisms.\textsuperscript{15} Indeed, as showed already, the most powerful ones have already put forward by the Paris School. Yet, in order to further clarify the limits of the Copenhagen School’s approach, it is necessary look at the dissatisfaction of those scholars, who are not strictly linked to any of those schools, but who integrate the concept of securitization into their analysis for a variety of analytical purposes. At the centre of these criticisms are the exclusive focus of the Copenhagen School on ‘speech act’ as a vector of securitization (Leonard 2004: 16) and internal analytical and methodological problems in employing their theory. Accordingly, it is widely contended that without being explicitly talked as a security issue or without accepted by certain ‘audiences’, an issue can be transformed into a security question. More precisely, as McDonald (2008: 564) elaborates that prioritizing speech of dominant actors ‘excludes a focus on other forms of representation (images or material practices), and also encourages a focus only on the discursive interventions of those voices deemed institutionally legitimate to speak on behalf of a particular collective, usually a state.\textsuperscript{16} Moreover, as it is argued, entailing a powerful role to language over the determination of security issues is problematic, as the language does not construct reality; rather it shapes only our perception of it (Fierke 2007; Huysmans 2006a/2006b). Equally important, a range of scholars highlight that the Copenhagen School neglects the role/power of the context on which securitizing moves are located (Gusfield 1981). McDonald (2008) states that in the securitization theory of the Copenhagen School,

\textsuperscript{15} See among others McSweeney (1999); Knudsen (2001); Hansen (2000); Balzacq (2005); McDonald (2008); Aradau (2004); Williams (2003); Doty (1998) and Booth (2005).

\textsuperscript{16} Similar points are raised with a reference to the role of media in case of Guld War and more recently in the course of the September 11 attacks (see for example, Ignatieff (2000); Der Derian (2001) and for critical analysis on ‘CNN effect’, see Robinson (1999/2001). More precisely, Williams (2003: 525) argues that a ‘focus on speech acts and linguistc rhetoric are limited as tools for understanding process of contemporary political communication in an age when that communication is increasingly conveyed through electronic media, and in which televsual images play an increasingly significant role’.
the context of the act is defined narrowly, with the focus on the moment of intervention only. The potential process for security to be constructed over time through a range of incremental processes and representations is not addressed, and the question of why particular representations resonate with relevant constituencies is under-theorized (ibid. 564).

In a similar vein, Huysmans and Diez (2007: 6) assert that ‘The individual speech act as such does not constitute securitization as such meaningful practice; only the wider discourse in which the speech act is located does’. This is an important point especially when it comes to the securitization of migration in the post-September 11 period. As addressed already, various scholars argue that the September 11 and subsequent attacks have only facilitated and contributed to the on-going securitization of migration; they were not the initiator of this process (see Huysmans 2006b; Bigo 2005). For them, it has become much easier to implement security-oriented practices in such a context, whereby migration has been already securitized.

As regards to the internal problems, it is methodologically difficult to identify securitizing actors whose discourses matter in the securitization process; to account for who constitute ‘audiences’; and what the threshold of a ‘significant’ share of it (Diez 2006). Concerning securitizing actors, Waever (2003) simply notes that mainly political leaders engage in securitizing moves. Yet, he further argues that ‘even the solid position of authority and motivation of leaders are not determinant points; they can only influence political interaction, which ultimately takes place among actors in a realm of politics with the historical openness this entails’ (ibid. 14). This underspecified definition raises the question of whose discourses should be taken into account in the analysis of securitization process. Similarly, with regard to the conceptualization of audiences, there are also methodological as well as theoretical limitations. As Diez (2006: 4) eloquently puts it:
Implicitly, the audience seems to be equivalent to the national public – a securitising move is successful if the large majority of the national demos accept it and therefore legitimates extraordinary measures. However, neither theoretically nor empirically does the national public necessarily have to be the audience of a securitising move. Their equation only works for the nation-state, in which securitisations serve the imagination of the nation (Anderson 1991) [...]. In theory, however, each securitising move has its own specific audience.

Another problem is that conceptualization of the securitization in ‘exceptional’ terms limits the application of theory to less extreme and serious cases, where the threat is not presented as such. This critique is, indeed, in line with the Paris School’s conceptualization of security. To retreat, in the Paris School approach, ‘the securitizing move is not a speech act asserting an existential threat to the nation but rather takes the form of building a general context of unease within which it may be justified to introduce a particular governmental technology’ (Diez and Huysmans 2007: 10; see also Bigo 2002). This point is more relevant especially with regard to migration, which is to be securitized not as an ‘existential threat’ but rather just as ‘security problem’ or ‘risk’ and as part of a ‘politics of unease’ (see van Munster 2005; Ceyhan and Tsoukala 2002). With respect to these critiques, it can be safely argued that the securitization approach of the Copenhagen School, which builds exclusively on the performatve role of language /speech act and on the role of audiences, cannot provide an empirically grounded work by itself. More precisely, it does not provide a systematic way of approaching ‘factual processes’ through which migration comes to be conceptualized and addressed as threatening.

Against these theoretical analysis and their critiques, the Paris School’s sociological approach toward securitization is well suited to this research. This is mainly because, to recap, this research aims to analyze how practices in general and the convergence or transversal of different practices belonging to different areas, (here migration and
terrorism), have securitized migration in relation to terrorism in the post-September 11 era. However, their approach needs to be refined. The next section will complement their approach by the works of scholars, who do not belong to any of those schools, but who develop fundamental insight into study of the securitization of migration. Here, especially the works of Huysmans, Balzacq and Leonard, who shift the analysis from speech acts to the practices in understanding and explaining the securitization, will be utilized in order to refine the analysis of the Paris School.

1.3. Securitization of Migration in the Context of this Research: Towards a Sociological Approach

Drawing on the critiques and explanations detailed above, the main points structuring the analysis of the securitization of migration in the course of this research and particularly the reasons of shifting the study of securitization away from the discursive approach of the Copenhagen School towards practices can be detailed as follows.

As already mentioned, the most important limitation of the Copenhagen School addressed by both the Paris School and other critics is the excessive focus on the ‘speech acts’, and the role of audiences as vectors of securitization. According to Bigo (2000: 194), ‘[i]t is possible to securiti[z]e certain problems without speech or discourse and the military and the police have known that for a long time. The practical work, discipline and expertise are as important as all forms of discourse.’ This stance is held by other scholars arguing that without being explicitly asserted as a security threat or without explicit assent of audience, the way to handle an issue through security rationality could render it as a security problem (Balzacq 2008; Huysmans 2006a/2006b; Leonard 2010b). To be more precise, as Huysmans (2006b: 4) contends eloquently ‘even when not directly spoken off as a threat, asylum [and immigration] can be rendered as a security question by being
institutionally and discursively integrated in policy frameworks that emphasize policing and defense.’ He exemplifies this stance with the following words:

Including asylum in a plan that is largely a security response to social problems and crime frames it differently from a plan that focuses on facilitating reintegration, asserting liberty and human rights, and tackling fraudulent practices of high income earners. In neither of these plans asylum has to be asserted as a threat but it is reasonable to argue that in the former case it is de facto embedded in a security problematique while in the latter it is embedded in a context of integration, support of free movement and re-distribution. This opposition is too simplistic (e.g. Balibar 2002: 27-42) but it introduces an important shift in perspective. [Hence] asylum does not have to be explicitly defined as a major threat to become a security question (ibid. 3-4).

This stance does not ignore the role of discourses; rather it links them to a wider context, in which practices ‘precede and pre-structure political framing in significant ways’ (Huysmans 2006b: 8). In this context, similar to the Paris School, emphasizing the structuring role of technocratic practices, Huysmans also follows a Foucaultian line of thinking ‘based on a sociological and historical recognition that technology and expert knowledge are central to the formation of modern society and its governance of social conduct’ (ibid. 9).

Relating to this, Leonard (2010b) identifies another important reason for privileging practices over discourses. She posits that analysis of discourses would be ‘misguided’ in cases where the securitization has been already institutionalized owing to the persistent and continuous political framing of an issue as a security threat’ (ibid. 236). In such cases, there is no need for further discursive securitizing moves. On the contrary, the issue could be addressed by desecuritizing discourses; but it would continue to be dealt with securitizing practices. Hence, again, analysis of practices in a wider context is of utmost importance in order to reveal the dynamics of the securitization process.
Balzacq (2008) complements these approaches by arguing that analysis of the practices enables to explore the ‘factual process of securitization’. More precisely, he argues that by shifting the analysis from discourses to practices, it would be possible to delineate ‘empirical referents of policy’ – policies, policy tools or instruments-, which are utilized by the EU and national governments to alleviate public problems defined as threats’ (2008:76). Indeed, Balzacq uses the concept of ‘tool of securitization’ or ‘instrument of securitization’ rather than Bigo’s and Huysman’s emphasis on ‘practices’. Besides, in contrast to them, he comes up with a precise definition of his concepts (Leonard 2010b: 237). He defines securitization ‘tool’ or ‘instrument’ as ‘an identifiable social and technical “dispositive” or device embodying a specific threat image through which public action is configured in order to address a security issue’ (Balzacq 2008:79). In other words, these ‘tools’ or ‘instruments’ ‘by [their] very nature and or by [their] very functioning transform the entity (i.e. subject or object) [they] processes into a threat’ (ibid. 80). They ‘convey the idea to those who observe them, directly or indirectly, that the issue they are tackling is a security threat’ (Leonard 2010b: 237). However, as this definition demonstrates that Balzacq’s utilization of these concepts ‘seems to indicate that [they are] close to the idea of securitizing practice as meant by Bigo’ (ibid.). In this research, the term ‘practices’ will be used in a way to cover policies, tools, instruments and any other institutional and operational set-ups.

Once it has been decided to privilege practices over ‘speech acts/discourses’ in the explanation of securitization processes, it becomes necessary to identify the signifiers/criteria in order to find out how/which type of practices are securitizing migration particularly in relation to terrorism. In conjunction with the works of above-mentioned scholars, three important points have been put forward in order to assess the practices under investigation. First, as mentioned above, following Huysmans, securitizing
practices integrate the logic of policing and defense in order to secure ‘host community’ against ‘collective dangerous force’ of migrants (Huysmans 2006b: 56). In particular, the main rationale of these practices is to keep away or naturalize threats, here read as ‘migrants’. For instance, for Huysmans, strengthening border controls or expulsion practices are directly and visibly aiming at ‘making it more difficult for immigrants and refugees to enter a country’; they constitute a ‘strategy of sustaining distance between a society and the dangerous external environment’ (ibid. 55). In a similar vein, internal surveillance of migrants through various technologies, identity cards, and security agents is another example, which is administering such a distance. On the other hand, there are also invisible, hidden, and routinized practices performing the same role, such as policing refugees with vouchers instead of providing them with cash (ibid. 56). In analyzing these practices, Huysmans (2006a/2006b) does not only unpack the securitization of migration in relation to traditional national security concerns, e.g. terrorism; but also draws the attention to the securitization process with respect to non-traditional security issues. He aims to demonstrate that securitization is much ‘messier’ than the Copenhagen School’s emphasis on speech act and societal identity. More precisely, for him, ‘the construction of immigrants, asylum seekers and refugees into sources of societal fear follows from a much more multidimensional process in which immigration and asylum are connected to and float through a variety of important political debates covering at least three themes in the European context: internal security, cultural identity and welfare’ (2006b: 64). As regards to the first thematic field, similar to the Paris School, he explores how the abolition of external border controls has fed into the securitization of migration in relation to the alleged resultant ‘illegal movement of goods, services, and persons’ and how ‘border controls have played a key role in the spill-over the socio-economic project of the internal market into an internal security project’ (ibid. 70). In the field of cultural identity, he also
argues that migration is constructed as a ‘threat’, ‘challenge’ to the ‘vaguer notion of social and political integration of society’, in other words, to the ‘viability of traditional instruments of social and political integration, most notably, nationalism’ (ibid. 73). In this respect, he analyzes the current integration practices cemented by assimilationist tendencies and put forward to secure these very reified ‘identities’. In a similar vein, he also delineates how migrants, particularly those originating from ‘poor’ and ‘underdeveloped’ world are transfigured as ‘threats’ to welfare states and/or socio-economic well-being of European societies; thereby becoming subject to exclusionary and control-oriented practices. He touches upon the impact of the terrorist attacks in such a wider context, whereby securitization of migration has been already in place. This research is also built upon such a historical and contextual approach while unpacking the securitization of migration in the post-September 11 period. More precisely, it will establish a bridge between pre- and past-September 11 developments and assess the securitization of migration in relation to terrorism in the light of these constellations.

Second, Leonard (2010b) adds other criteria to be used in identifying securitizing practices. She draws the attention to the point that practices, previously used to deal with only traditional security threats, have become invoked against migrants. More precisely, she states that securitizing practices of migration refer to those

that are usually deployed to tackle issues that are widely considered to be security threats, such as a foreign armed attack or terrorism. For example, the deployment of military troops and military equipment such as tanks to tackle an issue conveys the message that this issue is a security threat that needs to be tackled urgently, thereby socially constructing this issue as a security threat (2010b: 237).

Even though these explanations provide significant insight into the identification of securitizing practices, there is a need of a more precise identifier in addressing the question of how migration has been securitized in relation to terrorism. Following Bigo, this
research is based on the argument that practices can be considered as securitizing if they handle the issue of migration through establishing a *security continuum* between migration and security concerns, e.g. terrorism or other criminal activities. More precisely, Huysmans (2006b: 71) argues that ‘security continuum is an institutionalized mode of policy-making that allows the transfer of the security connotations of terrorism, drug traffic and money-laundering to the area of migration’. In this context, if there is convergence or traversal between practices of migration and counter-terrorism purposes, we can talk about the securitization of migration in relation to terrorism. To recap, the key element in this process is the institutional intertwining of areas of migration and terrorism by building a general context of unease within which migration-related practices have been reshaped and readapted in the ‘war on terror’. Here, rather than societal security concerns, such as ‘cultural identity’, welfare state or other socio-economic and political issues, a more traditional conceptualization of security in the form of ‘national security’ is emphasized.

To sum up, in a historical context, securitizing practices can, therefore, be identified as those 1) emphasizing ‘policing and defence’ both in relation to traditional security concerns, e.g. terrorism and societal security issues, 2) ‘have traditionally been implemented to tackle issues that are largely perceived to be security issues (such as drug-trafficking, terrorism, a foreign invasion, etc.)’ and most importantly 3) interwinning with the counter-terrorism purposes and strategies following the establishment of continuum between migration and wide range of security issues.

1.4. **Subject and Aims of the Research**

In the light of a sociological approach to the securitization process developed by scholars detailed in the previous pages, the rest of this research seeks to understand empirically whether migration has been securitized through integrating it into a security
framework emphasizing policing and defence; whether it came to be dealt with practices, which were originally introduced for the fight against traditional security threats; and most importantly, migration and counter-terrorism practices have converged at the EU and national levels. As mentioned before, the EU level analysis is conducted in order to understand the impact of the Europeanization in domestic migration practices as well as of the interplay between the EU and member states in the securitization process. On this setting, the comparative analysis of Germany and Spain seeks to explore how/whether migration has been securitized in different national contexts; what the differences and similarities shape the politics of migration in the post-September 11 period; and which factors determine the convergences and variations between them. Providing some answers to these questions is fundamental for certain reasons. First, as mentioned already, there emerged rich amount of literature in the field of securitization in the last decades; however, as Bourbeau (2008:4) rightfully highlights ‘a limited number of studies have tried to “apply” the theory.’ Besides, the existing empirical works have largely focused on the EU and have not explored how securitization of migration has operationalized in different contexts, particularly at national levels. Hence, through conducting a comparative analysis\textsuperscript{17} of the securitization processes in Germany and Spain within a European context, this research aims to contribute to the empirically grounded analytical framework; to understand the dynamics of securitization with a detailed and systemic analysis of practices; and to open a new avenue for further empirical studies on the issue. By this way, most importantly, it seeks to challenge simplistic generalizations, which characterize the securitization as a homogenous or linear process.

\textsuperscript{17} For more on comparative analysis, see Chapter 2 Methodology.
1.5. **Definition of the Key Concepts and the Scope of Research**

Firstly, as already put forward, mapping out the background of the securitization process necessitates historically and contextually bounded analysis. In this context, even though the major focus of this research will be on the post-September 11 era, the pre-September 11 period will be also addressed in order to assess the arguments of ‘migration has been already securitized long before the September 11 period’. This historical analysis will provide also conceptual explanations in each case and help us understand the context on which the September 11 and subsequent attacks located. However, given the differences in the history of migration, the time frame applied to cases differs from one another. For example, in case of the EU, the pre-September period will be studied from the 1975 marked by the introduction of the TREVI (an acronym for ‘Terrorisme, Radicalisme, Extremiste et Violence Internationale’), as this development, for the first time, put migration at the focus of the European agenda as well as linked it with certain security concerns. In case of Germany, the period following the post- World War II will be the starting point. This is because, after that time, migration, - first asylum seeking and later guest worker system, brought forward radical changes into the German migration regime. Lastly, since Spain is considered as a ‘recent’ or ‘new’ immigration country, the analysis will take the period from 1980s as the starting point. As will be detailed, from 1980s, Spain started to turn into a migration country and introduced its first immigration law in 1985. On the other hand, what is common for all three cases is that the research will delineate the practices implemented until the late 2010. The reason for this choice is twofold. First, given the dynamicity of migration issue and related practices, it should have been necessary to put such a limitation. Secondly and most importantly, the interviews, which constitute a significant part of data gathering process, were finalized in 2010; so it was
decided to analyze the practices implemented until that time in order to provide a consistent empirical study.

Second delimitation concerns with the terms ‘migration’ and ‘migrants’. According to the definition of the UNESCO, ‘migrant’ is ‘any person who lives temporarily or permanently in a country where he or she was not born, and has acquired some significant social ties to this country.’ This definition is too broad and needs to be critically specified. First, it can be rightfully argued that the term ‘migrant’, most importantly, judicial status and categories of ‘migrants’ have been constructed and defined differently in different contexts. As asserted eloquently by Finotelli (2009: 896), for example, ‘asylum seekers and irregular immigrants are not always empirically different realities.’ Referring to analysis of Sciortino (2004: 21), she further states that

the adjective “irregular” describes, from a sociological perspective, the interaction of immigration flows with political regulations. From this standpoint, the “administrative” determination of the flows depends not only on the politics and the situation of the country of origin but also on the modes of inclusion that have been developing in each migration regime, and which influence immigrants’ expectations (ibid.).

In a similar vein, Bourbeau (2008: 12), argues that ‘states’ authorities define what constitutes an irregular/illegal migrant […] Neither theoretically nor empirically does our understanding of the illegal vs. legal migrants dichotomy necessarily have to be that of a particular state.’ He also points to the danger of categorizing migrants as refugees and irregular migrants, since these definitions are not ‘neutral’; they serve states to justify their securitarian practices (ibid.).

Keeping these criticisms in mind, in the context of this research, the term ‘migrant’ is used generally to encompass all types of categorizations, e.g. ‘economic’/labour immigrant, tourists, student immigrants, refugees or asylum seekers; and, similarly, migration practices cover again all types of practices addressing migration issue in general.
However, when it is necessary, these established categorizations are also utilized. This is mainly because states have already differentiated ‘migrants’ in line with their political, social, legal and economic characteristics. They have developed and employed different legal and policy framework applicable to these constructed categories in their migration regime. For example, asylum seekers and (economic) immigrants have become subject to distinct regulations. Or states deal with ‘qualified’ immigrants differently than ‘non-qualified’ immigrants; the former may be subject to preferential treatment. This allows the research to delineate which categories of migrants have been targeted and mostly referred in the securitization processes.

Another critical point is that contrary to the UNESCO’s definition, descendant of ‘migrants’ will be included into the scope of the analysis. This group constitutes the so-called ‘second’ or ‘third’ generation migrants. This extension is necessary as those who were born into and even granted citizenship rights may still be redefined as ‘migrants’ and subject to certain migration practices, such as those relating to integration measures aiming at combating radicalization and extremism.

Furthermore, while addressing migrants, who do not have the ‘necessary’ documents (e.g. visas or residence permits) or who cross borders without the consent of state authorities, the term ‘irregular’ migrant will be utilized in the context of this research. The reason is that the term ‘illegal’ is to contribute to the criminalization of migrants. More precisely, as put it by Guild (2010):

The choice of language is very important to the image which the authorities project to their population and the world. Being an immigrant becomes associated, through the use of language, with illegal acts under the criminal law. All immigrants become tainted by suspicion. Illegal immigration as a concept has the effect of rendering suspicious in the eyes of the population (including public officials) the movement of persons across international borders. The suspicion is linked to criminal law – the measure of legality as
opposed to illegality. Other international organizations and governments have chosen to use terms such as undocumented migrants and migration, or irregular migrants or immigration. This political choice about the language to use focuses attention on the relationship of the individual with the mechanisms of the state to document or regularization status rather than conjuring up images of police and the criminal justice system.

Accordingly, the term ‘illegal’ will be used only in the citations to keep close to the original context and to demonstrate especially how official discourses contribute to the criminalization of migration.

Last delimitations are related to the notion of terrorism and counter-terrorism practices. First, the term ‘Islamic terrorism’ is avoided in this research, as it is likely homogenize Islam and Muslims as terrorists. Instead, ‘international terrorism’ or if not specified otherwise, simply ‘terrorism’ is used while referring to the September 11 and similar attacks, because these attacks have repercussions transgressing borders. To put it differently, contrary to the ‘traditional’ acts of terrorism, which were mostly limited in geographical scope and whereby perpetrators could be personified, the post-September 11 terrorism has been depicted as delocalized and not-personified (see Eckert 2005). Another point is that this research does not deal with the issue of terrorism as a whole. More precisely, it does not focus on how the September 11 and subsequent attacks have changed and affected terrorism-related practices, but concerns with how/whether migration and counter-terrorism practices have intertwined in the post-September 11 period in a wider migration regime of each case. In this context, counter-terrorism practices will be taken into account as long as they converge with migration practices.

1.6. Structure of the Chapters

Along these lines, Chapter 2 deals with the methodology of the research. Specifically, after reflecting on the research questions, it details the research design and the
practices to be studied in the scope of this research. Most importantly, the analytical division between external and internal securitization and its rationale are scrutinized. It also delineates the methodological functions of comparative analysis and provides detailed information on data gathering with a special focus on expert interviews.

Chapter 3, 4 and 5 focus on the securitization of migration respectively in the EU, Germany and Spain. First, in each case, a historical background is discussed in order to unpack the pre-September 11 developments regarding the issue of migration. In particular, in a historical and contextualized manner, major developments in the politics of migration are summarized as well as relevant conceptual explanations are carried out. The second part of these chapters, begins with a brief analysis regarding the impact of the September 11 and following attacks in Madrid and London over the notion of ‘terrorism’ and the immediate reactions to these attacks. Then, on the basis of the analytical division between external and internal securitization, practices of migration and how/whether they have been restructured in relation to terrorism are closely examined. However, following Huysmans’s multidimensional perspective focusing on the securitization of migration in different thematic fields (e.g. internal security, welfare state, and cultural identity), the aim is not to analyze changes in migration practices solely in the light of terrorism attacks; rather to provide a broad picture on the securitization process. This serves to avoid simplistic generalizations associating all kinds of securitizing practices with the post-September 11 developments.

Chapter 6 offers a comparative analysis of Germany and Spain in relation to the EU level analysis. More specifically, it reflects upon differences and similarities informing the securitization processes across the national cases. Building mostly on interview data and to some extent, on the existing literature, the central aim is to explore the reasons behind the
convergences and variations in the process of securitization between Germany and Spain in a European context and with a special focus on the post-September 11 period.

Chapter 7 evaluates the findings of the previous chapters. In particular, drawing on the empirical results, this concluding chapter provides reflections on the dynamics of the securitization of migration and raises normative issues regarding the post-September 11 developments. Moreover, it also discusses the prospects for future research in accordance with the outcome of this research.
2. **Methodology**

2.1. **Research Questions**

Two major interrelated questions drive this study. The first one is whether/how migration has been securitized in relation to terrorism in three different contexts, namely in the EU, Germany and Spain, in the post-September era. More specifically, the major concerns are whether the September 11 and subsequent attacks in Madrid and London have restructured the way to administer the issue of migration and whether migration and counter-terrorism agendas and practices have been interwined. The second question concerns with whether this securitization process demonstrates similarities and differences between Germany and Spain in the European context and which factors are explaining the convergences and variations among them.

To answer these questions, this research is located in the post-positivist works of constructivist and post-structuralist of the critical security studies. In this context, the ontological standpoint is, therefore, against the essentialist interpretations of traditional security studies and built upon the understanding of security knowledge as a political and normative practice of representing policy questions in a security modality (Huysmans 2006b: xi). Accordingly, the aim, here, is not to assess whether migration is a real or perceived threat to the member states or the EU. Instead, this study strives for unpacking and problematizing the process of framing and administering it as such.

2.2. **Research Design**

In accordance with above-mentioned concerns, a descriptive and explanatory study of the securitizing practices was carried out in a comparative manner. For this, throughout this research, a qualitative approach methods, including documentary analysis, and semi-
structured, in-depth ‘expert’ interviews were utilized. The following section details the research design structuring this study.

2.2.1. Historical Analysis of the Pre-September 11 Period

For each contexts, - the EU, Germany and Spain, a brief historical analysis was done in order to provide a background for the post-September developments. More precisely, this analysis allowed the research to capture the dynamics of securitization in a historicized and contextualized manner. Given the arguments stating that migration has been already securitized long before the September 11 in Europe, such analysis served to explore the continuity and change in the migration practices in the light of international terrorism. Lim (2006: 20) explains the importance of historical analysis very clearly by stating that:

comparativists (of all theoretical orientations, I might add) begin with the assumption that “history matters.” Saying that history matters, I should caution, is much more than pointing out a few significant historical events or figures in an analysis; instead, it involves showing exactly how historical processes and practices, as well as long established institutional arrangements, impact and shape the contemporary environment in which decisions are made, events unfold, and struggles for power occur. It means, in other words, demonstrating a meaningful continuity between the past and the present (emphasis original).

Hence, by applying a historical analysis, this research refrained from simplistic assumptions on the securitization of migration and strived for contextualizing the post-September 11 developments in a meaningful way.
2.2.2. Brief Reflection on the Changing Perceptions of Terrorism

Again, for each case, a brief background analysis regarding the issue of terrorism and the pre-existing political consolation at the time of the attacks happened was undertaken. As the major focus of this study is not the changing character of counter-terrorism practices, but migration-related ones, this review was kept limited. More precisely, the aim is, here, to contextualize the analysis of the securitization processes in each case and to illustrate whether perceptions and practices of terrorism have changed in the light of international terrorism and if this is the case, whether such a change has served as a ground to securitize migration in relation to terrorism.

2.2.3. Analytical Framework for the Analysis of the Securitization Process

As detailed in the previous chapter, this research follows a sociological approach and seeks to explore the securitizing practices. Since there are vast amount of migration related practices, it is difficult to address all of them within the context of this research. This problem necessitates clearly defined categorizations in order to select the practices to be studied. To this end, the research’s point of departure is the Brochmann’s categorization of the mechanisms of migration control. Brochmann (1999) analyzes these mechanisms along two lines: external and internal. The first refers to the ‘more visible measures undertaken by states to control entry before departure or arrival’ (ibid. 12). On the other hand, the latter, the internal control mechanisms, ‘may be exercised from their first entry to their possible fulfillment of citizenship’ (ibid.). In line with these definitions, she identifies the following measures as part of external and internal control mechanisms (ibid. 14):
Table: 2.1. Brochmann’s categorizations of the mechanisms of migration control

<table>
<thead>
<tr>
<th>External Control Mechanisms</th>
<th>Internal Control Mechanisms</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Entry restrictions/Border Control</td>
<td>• Deterrent measures during periods of [asylum] application and examination</td>
</tr>
<tr>
<td>• Visa schemes</td>
<td>• Internal Surveillance, such as regulated access to ID cards, the requirement of residence and work permits</td>
</tr>
<tr>
<td>• Carrier liability for transporting undocumented migrants</td>
<td>• Integration policy, including naturalization or ‘amnesties’</td>
</tr>
<tr>
<td>• Computerized data bases on ‘unwanted persons’</td>
<td>• Employer sanctions</td>
</tr>
<tr>
<td>• Legislation against illegal trafficking</td>
<td>• Remigration incentives</td>
</tr>
<tr>
<td>• Preventive measures abroad: safe heavens, information campaigns, readmission agreements.</td>
<td>• Repatriation and deportation</td>
</tr>
</tbody>
</table>

Despite this analytical division, she also points to the interplay between the two spheres. That means external and internal control might be combined with each other in practice; and therefore, the division between the two is not clear-cut (ibid. 14-15). In her words, ‘there are grey areas in between the boxes, as well as important interactions across the spheres’ (ibid. 15). For her, especially this interplay and blurring line between external and internal control mechanisms have come to be much more apparent in the EU context. As she eloquently puts it, in the face of ongoing European integration process and with the dismantling of internal border controls, this interplay has become unavoidable.

She details her approach by stating that

Historically, states have had to rely on control of national frontiers for their own security.

Border control has been seen as a shield against terrorism, international crime, drug
trafficking, illegal weapon trading – and unwanted immigration. The prospects of removing this national instrument have triggered calls for contemporary measures, both in terms of reinforced controls at the Community’s external borders, and through strengthened internal (national) control mechanisms (ibid. 18)

In a similar vein, various scholars explore this convergence within the EU context, but through emphasizing the so-called ‘external dimension’ of this process. More precisely, for example, Rijpma and Cremona (2007: 12) call this process ‘extra-territorialization’ of migration policies, which:

- covers the means by which the EU attempts to push back to the EU’s external borders or rather to police them at distance in order to control unwanted migration flows. …It further covers the measures that ensure that if individuals do manage to enter the EU, they will be repatriated or removed to ‘safe third countries.

On the other hand, Bigo and Guild (2005: 1) identify this external dimension of migration practices as ‘policing at a distance’, a new form of policing ‘in the name of freedom’ which ‘moves the locus of controls and delocalizes them from the borders of the states to create new social frontiers both inside and outside of the territory, which is envisioned as a European territory’. Similarly, Zolberg (2003) introduces the term of ‘remote control’ signifying practices, which aim at preventing the arrival of migrants either at or near the point of origin. Lastly, for Zapata et al. (2009: 14), this external dimension is security oriented, as it ‘reflects what could be called a “policy as restriction” in the sense that it establishes policy with the aim of restraining the movement of people.’ The common point among these arguments is that the EU and member states have reproduced ‘the EU internal migration policy at external level’ (ibid. 10) and shift their control strategies outside the European territory in order to contain and control those seeking to enter the EU before they gain secure status in member states. Keeping these arguments in mind and despite the blurring lines between external and internal sphere, it is still possible to end up
with the following analytical division in exploring the securitization process in the course of this research:

a) *External Securitization* covers practices, which are directed towards those would-be migrants and have preventive approach. These practices are operationalized either far from the physical borders or at the physical border in order to prevent, deter, control and filter migrants before their departure or arrival.

b) *Internal Securitization* includes those practices targeting the already-entered migrants. As mentioned in the previous chapter, those migrants not only cover long-term/short-term residents without citizenship or family class migrants, but also those, who have been ‘naturalized’ as well as who are labeled as ‘second’ or ‘third’ generation migrants.

What matters in this analytical framework is the division between practices directed against would-be migrants and those addressing the already-present/entered ones. Following the Paris School, these divisions are taken as ‘an object of analysis’; rather than ‘taken-for-granted conceptual or disciplinary divide’ (see Diez and Huysmans 2007: 9). Besides, when it became necessary, the interplay between these analytical units were taken into consideration.

Getting back to the securitizing practices that are investigated under these two rubrics; due to the extensiveness of migration practices and for the sake of detailed and deep analysis, the most important and major ones are selected through dwelling upon the existing literature and the data gathered for this study. This limitation provided a more detailed and deep analysis in exploring the securitization process. Accordingly, the following table summarizes the practices that were delineated within the analysis of the securitization in the course of this research:

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59
Table 2.2: Analytical Framework for the Analysis of the Securitization Process

<table>
<thead>
<tr>
<th>External Securitization</th>
<th>Internal Securitization</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Practices administering the entry/admission of would-be migrants, (visa policies for short and long term stay, labour immigration, family reunification and practices targeting the entry of asylum seekers)</td>
<td>• Internal surveillance practices (controls and checks conducted by security agencies over migrants)</td>
</tr>
<tr>
<td>• Technologized border control practices (computerized databases, biometrics, electronic fences, etc.).</td>
<td>• Integration practices, including integration programmes, citizenship regulations and regularization programmes</td>
</tr>
<tr>
<td>• Militarized border control practices (establishment and deployment of police and para-military forces for border control)</td>
<td>• Removal or return practices, including repatriation and deportation (deportation on security grounds, exceptions to the principle of non-refoulement, etc.)</td>
</tr>
</tbody>
</table>

In the sphere of external securitization, first, visa policies constitute the most important practices controlling and, if necessary, preventing certain migrants from entering into the territory. They perform the role of ‘policing at a distance’ or of ‘remote control’ (Bigo and Guild 2005; Zollberg 2003). According to Bigo and Guild (2005), they are put into practice to identify ‘those groups of people who are more likely than others to have among them individuals who constitute a risk to the state in question before their arrival’. Especially in the European context, following Huysmans (2006b), visa policies have clear security connotations, as they have turned into the key to keep away or naturalize ‘threats’,
‘risky’ groups and to ensure internal security of the EU. Secondly, practices governing family reunification are another example of how states control those would-be migrants wishing to enter the territory in order to unite with their family members. Despite established human rights principles protecting the right to family reunification\(^{18}\), (member) states have retained high level of discretion over this issue. This right can be restricted for reasons of national security or public order and or as currently with a reference to ‘integration’ considerations. In this context, practices of family reunification have also preventive and security aspects. In a similar vein, those practices, such as imposition of visas on asylum seekers or carrier sanctions, have function of preventing asylum seekers to lodge their claims before their arrival. Especially, in the face of *non-refoulement*\(^{19}\) principle, which was established as a part of a customary law, these pre-entry barriers can be regarded as of utmost importance to keep ‘unwanted migrants’ away from the European/member states’ territory.

On the other hand, technological practices including computerized databases, biometrics, electronic fences equipped with high-tech devices, have increasingly gained importance in controlling migrants and, if necessary, preventing their entry. They are not

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\(^{18}\) Article 16 (1) of the Universal Declaration of Human Rights (hereafter UDHR) states: ‘Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution’. In a more precise manner, the United Nations Human Rights Council (hereafter UNHRC) states: ‘Family unity is a fundamental principle of international law. For refugees and those who seek to protect them, this principle has several important facets. The integrity of the refugee family is a legal principle and a humanitarian goal; it is also an essential framework of protection and a key to the success of durable solutions that can restore a refugee to something approximating a normal life’ (Jastram and Newland 2001). Last, but not the least, Articles 44 of the United Nations International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families states that: ‘1) States Parties, recognizing that the family is the natural and fundamental group unit of society and is entitled to protection by society and the State, shall take appropriate measures to ensure the protection of the unity of the families of migrant workers. 2) States Parties shall take measures that they deem appropriate and that fall within their competence to facilitate the reunification of migrant workers with their spouses or persons who have with the migrant worker a relationship that, according to applicable law, produces effects equivalent to marriage, as well as with their minor dependent unmarried children’ (United Nations 2006).

\(^{19}\) Article 33(1) of the 1951 Geneva Convention provides that: ‘No Contracting State shall expel or return (“refouler”) a refugee in any manner whatsoever to the frontiers of territories where his [or her] life or freedom would be threatened on account of his [or her] race, religion, nationality, membership of a particular social group or political opinion.’
necessarily employed at or around physical borders; but they can be operational far from physical borders with the aim of preventing and sorting out would-be migrants seeking to cross borders. Ceyhan (2008: 102) calls this process ‘the technologization of security, i.e. the making of technology the centerpiece of security systems and its perception as an absolute security provider’ in order to ‘identify people with certainty’. For her, it is a ‘process continued in the nineties with the problematization of immigration leading to the tightening of border controls against illegal immigration […] and to the constitution of a security continuum linking together drugs, immigration, asylum, crime and terrorism […]’ (ibid.).

Lastly, militarization practices of border control implies enhanced border policing at and around territorial borders by security agencies, or by the so-called para-military bodies, equipped with war-like devices. Again, the logic informing these practices is ‘policing and defence’ of the internal security against threats arising from movement of people. Moreover, as already put forward by Leonard (2010b), development of these practices signifies how movement of people in general has come to be administered with practices ‘that are usually deployed to tackle issues that are widely considered to be security threats, such as a foreign armed attack or terrorism.’

In the field of internal sphere, as the Table 2.2. illustrates that the first type of practices relate to the internal surveillance mechanisms covering also technologically based surveillance measures, data gathering as well as intensified control by security bodies, including police and intelligence services over (certain) migrant communities, their neighborhood as well as their organizations. As argued by various scholars, these practices have put certain group of migrants under a security framework. It is asserted that internal surveillance mechanisms are to target ‘foreigners’ and migrants with specific

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characteristics in order to protect ‘society’ from potential risks or threats. In this context, internal surveillance has become a strategy of ‘exclusion’ and ‘inclusion’ by the way of rendering some as ‘legitimately present’ and denying the same legitimacy to others (Lyon 2003: 81). Hence, as contended by Ceyhan (2008: 113), these practices are to ‘attribute certain kind of identity to a person’ under the label of ‘risky’ or ‘safe’ or today’s well-known distinction of ‘good Muslim’ and ‘bad Muslim’ and make her/his inclusion conditional upon the degree of her/his dangerousness.

As regards to the politics of integration, at the outset, it is necessary to touch upon some critical points. Integration practices are mostly presented and viewed as ‘innocent’ attempts employed for benefits of migrants. However, as noted, this is not always the case (see Carrera 2006; Waever 1993 and Buzan et al. 1998). More precisely, the emphasis on the necessity to integrate migrants may ‘directly or indirectly confirm nationalist desire for a culturally homogenous society, identifying immigrants as the obstacle to a successful realization of this desire’ (Blommaert and Verschueren 1992/1998 cited in Huysmans 2000: 765). This is a crucial point; as noticed by Huysmans (2000 a and 2006 b), integration practices assume that previously, there was a homogenous society, which has been disrupted by the arrival of migrants (see also Balibar 1994). Against this background, in certain cases, the underlying logic of the integration is the same with the exclusionary practices. Both of them see and handle ‘differences’ of migrants as a threat to the stability of host society that should be contained or eliminated. Similar arguments put forward by the Paris School, asserting that migrants have been constructed as ‘abnormals’ or ‘social enemies’ across Europe in the course of migration practices in general and politics of integration in particular (see Bigo 2005; Thsoukala 2005). In a similar vein, Carrera (2006: 89-90) remarks that ‘the lack of integration is conceived as a threat to social cohesion and stability. The category of immigration and the juridical label of “foreigner” are often
uncritically linked to these “integration problems”.’ Against this backdrop and following Brochmann’s (1999) analytical framework, the main focus of this research was on the practices administering the issue of integration programmes, citizenship and regularization of irregular immigrants, all of which have constituted major sense of anxiety in the last decades across the EU. As the integration issue covers various areas ranging from employment, housing, education, city planning to those that are not included into the scope of this project, it is of utmost importance to come up with such a limitation.

Lastly, practices of removal, at the outset, signify the ‘intersection of migration and security’, as they ‘[entail] questions of who is allowed access into the country and who can be removed’ (Friman 2006). The security reasoning is apparent in the course of violent deportation methods empowered against the so-called failed asylum seekers and irregular migrants (see Fekete 2009a). However, this security logic is not only manifested in these forced and violent deportations, but in today’s mostly appealed ‘voluntary’ return programmes. This is because; they also aim at getting rid of ‘certain’ group of migrants. For example, in the light of economic crisis, various European countries have started to enforce such voluntary programmes and justified them in order to preserve their economic and social well-being.

To summarize, these practices have been already based on a securitarian approach emphasizing ‘policing and defence’ and aiming at ‘making it more difficult for immigrants and refugees to enter a country’; they constitute a ‘strategy of sustaining distance between a society and the dangerous external environment’ (Huysmans 2006b). Besides, in certain cases, they are likely to handle the issue of migration as a traditional security concern when one unpacks them critically. However, this research, rather than taking the securitarian character of these practices as granted, it sought to explore and understand their rationale through contextualizing them and, most importantly, through exploring
whether they have been restructured by counter-terrorism debates and practices in the post-
September 11 period.

2.2.4. Comparative Analysis and Case Selection

From the 1990s, the interest in comparative analysis through qualitative
methodology has intensified in social sciences.\(^{21}\) In this bourgeoning literature, a heated
debate emerged about the strategies that shall be followed in search of similarities and
differences to explain the phenomenon in question. In the course of these discussions, most
of the studies refer to the J. S. Mill’s path breaking distinction between the Most Similar
Systems (MSS) and Most Different System (MDS) designs, which he discusses in his
seminal work, titled, *A System of Logic: Ratiocinative and Inductive*. In the first design, the
cases are similar in many ways and these similarities are accepted as constant or irrelevant
for the explanation of the phenomenon under investigation, namely for the dependent
variable. And the ‘comparativist can focus on finding a significant dissimilarity between
the two systems, which can then be put forward as the causal factor or key independent
variable’ (Lim 2006: 34-5). The main drawback of the MSS design is the problem of
determining which difference(s) matter(s) for dependent variable. Especially, the difficulty
arises when there are considerable amount of differences between the cases (see Hopkin
2002).

On the other hand, in the context of the MDS, the cases differ in many ways, but
they reflect a similar dependent variable. So similarities, namely independent variables, are
accepted to explain similarity concerning the dependent variable. Lim (2006: 41) details
that:

\(^{21}\) See among others Ragin (2000/2006); Gerring (2001/2006); Mahoney and Rüchemeyer (2003); Bennett
In contrast to the MSS design, variance on the dependent variable is not required. In fact, the dependent variable should be the same in all cases, for, in an MDS design, the researcher is attempting to show that the relationship between the presumed independent variable(s) and a dependent variable holds across a wide variety of vastly divergent settings.

Hence, the logic is to select cases, which differ in many ways, but in which independent and dependent variables show key similarities. Again, the MDS suffers from certain flaws. As in case of the MSS design, it is not always possible to explain similarities among dependent variables of each case through relying on similarities in their independent variables; there might be other causal factors or combination of causes that would produce the same result. With respect to these problems, Ragin’s argument provides a crucial way out through focusing on the case-oriented approach as opposed to the variable-oriented approach. He asserts that (2006:640):

The challenge posed by comparative research to conventional quantitative research is to see causal conditions not as competitors in the struggle to explain variation in dependent variables, but as collaborators in the production of outcomes. The key issue is not which variable is the strongest (i.e. has the biggest net effect), but how different conditions combine and whether there is only one or several different combinations of conditions (recipes) capable of generating the same outcome. Once these combinations are identified, it is possible to specify the contexts that enable or disable specific individual cases.

Ragin’s approach provided fruitful avenue for research through pointing out the possibility of different combinations of causal conditions determining outcomes as well as the importance of context in the identification of which causation prevails over other, unlike the Millian methods’ emphasis on individual causes or strictly determined variables. Yet, certain problems still remain unresolved. At the core of them is the question of how we can identify these very possible causal conditions and draw the boundaries of
comparative analysis. For Lim (2006), in determining clear criteria to be used for the identification of causal conditions or factors that affect outcomes, the role of theory is of utmost importance. This is because ‘if we understand theory as some kind of simplifying device that allows us to “see” which facts matter and which do not, then it is at the very point when one starts selecting the relevant details that one begins to theorize’ (Rosenau and Durfee 2000 cited in Lim 2006: 66). In this context, Lim (2006: 67) contends that theory directs the explanation of any phenomenon and clarifies how this explanation is to be conducted through leading us to select certain ‘facts’ or determinants while ignoring others. Similarly, as indicated by Morse (1994: 221):

[in theory driven inquiry] the theory is used to focus the inquiry and give it boundaries for comparison in facilitating the development of the theoretical or conceptual outcomes. The theory or concept of interest at best may be considered a conceptual template with which to compare, and contrast results, rather than to use a priori categories into which to force the analysis.

As detailed in the previous sections, the conceptual and analytical framework was determined in line with the theoretical background. However, for the explanation of factors that are to influence outcomes, e.g. variation and similarities in the securitization of migration among the cases, it is also necessary to rely on existing literature and empirical data gathered throughout the research period. As Ragin (1994) states that ‘the general stock of social scientific knowledge’ makes possible for ‘social scientists to systematize knowledge and make connections that might otherwise not be made.’ In the light of this, the combination of theory with the empirical data helped draw boundaries in the comparative analysis and in the explanation of differences and similarities among the cases in this research as well. As will be further detailed in the following pages, particularly interview data provided an important methodological tool to explain and interpret the results of the study in a comparative manner.
Keeping these methodological concerns in mind, Germany and Spain were selected purposefully as comparative partners. As an important interface, it should be reiterated that the structure characterizing the national cases, e.g. external and internal divisions and the practices to be investigated, was also applied to the EU level analysis. However, the EU was not taken as a comparative partner *per se*; rather as a complementary partner in the face of the Europeanization process implicating in the member states’ practices. Because of its unique character, such as being a supranational entity, with different political structures, it cannot be compared with national cases. Getting back to the choice of Germany and Spain as comparative partners, several reasons led to this decision.

- Germany and Spain are both liberal democracies. This means that they are subject to constitutional checks and obligations arising from international human rights principles and agreements to which they are parties. Moreover, as both experienced fascist regimes, e.g. Nazi and Franco, strict adherence to liberal-democratic values is of utmost importance in both of these countries.

- Both of these countries are members of the EU; hence, they are required to readapt and shape their migration practices in line with the Europeanization process.

- Both of these countries are important migration countries and migration has been one of the central issues in public and political discussions. Various analysis have already demonstrated that even before the September 11 attacks, migration has constituted one of the sources of anxiety and been problematized in relation to economic and social concerns.

- Both have experienced Muslim migration, though at a different level. This is also crucial point in the explanation of the securitization process, given the unease directed towards Arab and Muslim migrants following the September 11.
• Both are under heavy pressure in demographic terms, as they have a relatively low fertility rate (Germany has one of the lowest fertility rates in the world with 1.42, followed by Spain with 1.48). This makes the need for further migration as a thorny issue on political agenda.

• Both of them either have implemented new measures or reformulated the existing ones concerning migration and counter-terrorism in the post-September 11 period. These similar features allowed for a high degree of comparative control and a meaningful comparison. Within this specific setting, it became possible to structure the comparative analysis in a coherent way, as the conceptual and analytical framework developed in relation to the theory and empirical data were able to be applied to both cases.

On the other hand, there are crucial differences that are to affect the dynamics and process of the securitization of migration. These can be summarized as follows:

• As already mentioned in Chapter 1, the key difference between Germany and Spain is their migration history. In particular, these two countries represent two ideal types in European migration regime (Germany being a ‘traditional/old’ migration country and Spain being a ‘recent/new’ migration country). To reiterate, in case of Germany's transformation into a country of migration, asylum seekers, immigrant workers (the so-called guest workers) and family class immigrants have constituted the major types of migrants. On the other hand, labour immigration either in regular or irregular form has been conceived as the key in the transformation of Spain from an ‘emigration’ to a ‘migration’ country. Asylum issue has not occupied a central place in this framework. Relating to this, another major difference becomes apparent when it comes to the presence of descendants of migrants. In Germany, it is possible to find more established migrant communities including ‘second’, ‘third’, even ‘fourth’

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generation ‘migrants’. However, this is not the case in Spain, as it is a relatively young migration country.

- Again closely related to their history of migration, in contrast to Spain, Germany began earlier to develop comprehensive practices as well infrastructures concerning the issue of migration. Even though it has adhered to the premise of ‘Germany is not an immigration country’ for a long time, and ignored the issue of integration, it has implemented various legislation and established institutional framework in order to deal with the issue. On the other hand, Spain has focused on policing and control aspects of migration and other issues, such as those relating to integration, have not occupied a central place on the political agenda. The most comprehensive steps have started to be taken only from the early 2000s.

- Their geopolitical position constitutes another key difference implicating in their migration regime. Previously, Germany’s borders constituted the external border of the EU as well. Following neighboring countries’ (e.g. Poland and Czech Republic) accession to the EU, Germany turned into a country surrounded by the EU member states. On the other hand, Spain has long coastal borders and is located near to African continent.

- Another dissimilarity relevant to this study is the history of terrorism. Germany experienced radical-left wing terrorism, known as Red Army Faction (Rote Armee Faktion – RAF), from 1970 to 1998. Besides, it has been still targeted by violent acts of Neo-Nazi terrorism. As a response, it developed strict counter-terrorism practices. However, terrorism in Germany, at least before the September 11 attacks, had not occupied the political agenda at a higher level of intensity and for a long time contrary to Spain, whereby the so-called ETA terrorism has been still one of the most challenging issues with long-lasting repercussions in its political system. In this
context, Spain has already had a more comprehensive and draconian counter-terrorism practices.

- Moreover, Spain experienced international terrorism directly through the Madrid attacks. On the other hand, Germany has not had such a direct experience, except the foiled suitcase bomb plots in 2006 and 2007.
- Lastly, Spain has been severely affected by the latest economic crisis compare to Germany. High unemployment rates and neo-liberal restructuring of economic policies have sparked enormous distress and outrage among Spaniards. This situation is mirrored in the latest unemployment rates across the EU. According to most recent statistical findings of the Eurostat (2012), among the member states, the lowest unemployment rates were recorded in Austria (4.4 %), Luxembourg (5.2 %), Germany and the Netherlands (both 5.4 %), and the highest rates in Spain (25.8 %) and Greece (25.1 % in July 2012).

Against this backdrop, it is now necessary to specify the goals of the comparative analysis in the course of this research. Ragin (1994) outlines seven major goals of social research, namely: identifying general patterns and relationships; testing and refining theories; making predictions; interpreting culturally or historically significant phenomenon; exploring diversity; giving voice; and advancing new theories. In the course of this research, comparative analysis of Germany and Spain alongside the EU level analysis allowed to achieve especially five of these goals:

1) Identify general patterns and relationships (assessing how migration has been securitized through practices).

2) refine existing theories, (further developing knowledge on the securitization of migration and contributing to the literature on the sociological approach to securitization)
3) interpreting historically significant phenomenon (assessing the impact of September 11 and subsequent attacks over migration practices)

4) explore the diversity (identifying the variations in the process of the securitization in different contexts),

5) giving voice (providing critical reflections on the current discourses and practices securitizing migration)

In particular, a comparative analysis of Germany and Spain together with the EU level analysis provided ‘knowledge of general patterns’ concerning the process of securitization. Especially, such a comparison offered an insight into how this process might work in other ‘traditional’ and ‘recent’ migration countries sharing similar experiences respectively with Germany and Spain. Besides, it would lead future researches to unpack the securitization process in other specific contexts. Relating to this, the comparison is believed to contribute to the literature on securitization. To reiterate, most central works in the literature focus on the EU level developments. Few among others provide analysis on member states but in a very limited way. Besides, there is still gap in the application of the securitization approach. In this context, this research intended to refine the existing sociological approach and contribute to the empirical analysis on the issue.

Thirdly, Ragin (1994) states that ‘Knowledge of general patterns is not the only kind of valuable knowledge, however, especially when it comes to understanding social life. In the social sciences, knowledge of specific situations and events, even if they were atypical is also highly valued.’ It can be rightfully argued that the September 11 and subsequent attacks have opened a new era with deep socio-political repercussions. Not only in Europe, but also in other parts of the world, crucial transformation has happened with a reference to international terrorism. Hence, September 11 and subsequent attacks can be undeniably labeled as one of the most important historical events. In this context,
the comparative analysis served to assess the impact of these events on migration practices in different contexts. It shed light on how/whether the political structure and our understanding of movement and order have changed in the light of these events.

Similar to the goal of identifying general patterns, the comparative nature of the research also helped explore the diversity, variation at the level of securitized migration. This is of great importance to counter the simplistic and straightforward explanations regarding the securitization process. More precisely, it challenged those studies taking it granted that the securitization process happens in the same manner in all contexts. Besides, despite the ongoing Europeanization process shaping and harmonizing member states’ migration practices, the differences among member states remain intact. In this context, neither the EU level analysis nor single case studies by themselves offer a complete framework to understand the dynamics of the securitization. Hence, such a comparison offered a more coherent and broad picture on the securitization of migration across the EU through demonstrating the interplay between the EU and member states.

Lastly, comparative analysis of practices and the securitization process seeks to draw the attention to the current securitarian practices and promote advocacy research. Numerous pro-immigrant groups have already voiced their outrage against the post-September 11 measures directed against migrants. In this context, the intention, however, is neither to idealize migrants nor to support their causes blindly. Rather, in the face of growing securitarian discourses and anti-immigrant movements across Europe, the aim is to contribute to the critical engagement with the existing practices by putting forward an empirically grounded research.
2.2.5. Data Gathering

This research was conducted in different places, but particularly, in Germany, Spain, Belgium, and Turkey between July 2008 and June 2011. During this time, the data were collected through various methods. In the initial phase of the research, secondary sources were collected through archival and documentary research. These include academic writings on the issue, governmental documents and reports, national and the EU level legislations and policy papers, and documents issued by local, international and non-governmental organizations, such as reports prepared by Statewatch, Human Rights Watch (HRW), Amnesty International (AI), European Council on Refugees and Exiles (ECRE), The European Network against Racism (ENAR), International Organization for Migration (IOM) and United Nations (UN) in general. Additional sources also cover parliamentary debates, declaration or brochures released by political parties and newspapers. Besides, extensive internet search was also conducted in order to catch up new developments on the issue. These data did not only help structure the research in general; but also provided crucial amount of background information before conducting interviews.

The second phase of the research covers fieldwork phase. First, I participated in the activities of local NGOs and migrant organizations in Germany, Brussels and Spain. I have also worked voluntarily for Hamburg Refugee Council and got the chance to have close contact with refugees and immigrants. Moreover, I visited mosques especially in Hamburg and involved in their ceremonies and seminars. All these provided me with valuable, at first-hand information on their experiences, perceptions and impact of practices directed to migrants, even though the main concern of this research relates to the policy output; rather than policy outcome.

Secondly, I stayed as a visiting scholar at the University of Kent in Brussels during October, 2009 and at the Foundation of José Ortega y Gasset in Madrid for three months in
During my stays in Brussels and Madrid, I found opportunity to work with outstanding scholars specializing in migration issue and to involve in academic exchanges with various PhD students. Especially, the academics working on the securitization theory contributed a lot to the theoretical and analytical parts of this research with their valuable comments. Furthermore, I was able to attend various seminars, discussions and conferences which enriched my knowledge on the issue.

Thirdly, and most importantly, sixty four in-depth, semi-structured interviews were conducted with ‘experts’ from 2008 to 2010. They were conducted mostly in Germany (Hamburg and Berlin), Belgium (Brussels) and Spain (Madrid and Barcelona). However, in other European countries, including Italy (Turin), Switzerland (Genève), France (Lille), Austria (Wien), Sweden (Stockholm), and Turkey (İstanbul) limited but well-targeted interviews were also conducted.

The reliability of all these data was ensured through the data triangulation. The data triangulation is based on utilization of different data sources and comparing them with each other in order to increase the reliability of the information integrated into the research. In this context, through collecting data from various sources, e.g. documentary analysis and interviews, and by the method of cross-checking of their results, the research sought to ensure the reliability of findings.

2.3. Expert Interviews

Starting from the 1991, which is marked by the seminal article of Meuser and Nagel, the debate on ‘expert’ interviews has gained momentum. The concerns have mainly lied on issues of what constitutes experts, their selection process, strategies of interviewing

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23 For a detailed analysis on the issue, see among others, Denzin (1989); Denzin and Lincoln (2005); Vögel (1995); Flick (2006); and Creswell and Clark (2007).
and interaction during the interviews, the analysis of the results, etc. (see Bogner et al. 2009). In the light of these discussions, the following pages will offer a more precise outline of how the research handled these issues in order to achieve a secure analytical framework.

2.3.1. The Rationale of Conducting Semi-Structured Expert Interviews

At the outset it is necessary to clarify the reasons behind conducting semi-structured expert interviews, rather than, for example, structured interviews, which are supposed to provide more objective and trustworthy information according to positivist approach. Firstly, as will be detailed below, given the differences concerning the positions and field of interviewees’ expertise, semi-structured interviews allowed the research to follow a more flexible questioning; because not all questions were suitable for all respondents nor could all the questions be asked in the same manner in each panel. Indeed, as Rapley (2004: 18) states that:

> You do not have to ask the same question in the same way in each interaction. You often cover the same broad themes in different interviews – either through the interviews or you raising it as a subject for talk. This is a central rationale of qualitative interviewing – that it enables you to gather contrasting and complementary talk on the same theme or issue

(emphasis in original).

Because of this flexibility offered by semi-structured interviews, ‘standardization of most questions and replication of similar interviews’ were achieved in order to ‘build several categories and to compare the data thematically’ (see Sezgin 2008). Indeed, these advantages of semi-structured interviews were further supported through preparing a basic interview guide including main common questions and some interjecting questions in accordance with the expertise of the interviewees. In this context, even though each
interview demonstrated certain differences regarding the topic lists, ‘same trajectory’ was able to be followed to compare and aggregate data’ in the course of this research (van Audenhove 2012: 13).

As regards to the advantage of conducting ‘expert’ interviews, Vogel (1995: 74) states that the expert interviews have two key functions, namely the ‘explorative’ and ‘systematizing’. In this research project, interviews served these two functions as well. More specifically, first, as mentioned already, the main concern of this research is to ‘explore’ the practices under study, and to understand their rationales. In this context by emphasizing facts and data oriented questions, interviews accomplished the purpose of gathering ‘factual information’, which is not always found out in open sources. This function is of utmost importance for the analysis of the ‘empirical referents of policy’ (Balzacq 2008: 76), or so to say, of the ‘factual processes of securitization’ (Huysmans 2006a: 157). However, expert interviews, here, did not only intend to ‘establish a sound factual basis, but [also] follow the goal that lies at the heart of qualitative research: the reconstruction of latent content of meaning’ (Bogner et al. 2009: 6). In this respect, interview data performed this role as well, especially in understanding the justification of certain practices in the post-September 11 period and in creating a meaningful and comprehensive context for the overall research questions. Regarding the second function, it became possible to achieve ‘systematic retrieval of information’ with the interviews (ibid. 7). In particular, expert interviews in this research helped ‘systematize’ the research questions and frame the comparative analysis. Given the broadness of the research, it was not an easy task to come up with a clear analytical framework. However, by utilizing interview data, the framework for the comparative analysis was drawn. In particular, which differences and similarities matter and structure the securitization processes in cases under
investigation and which factors lead to variations and/or convergences among them were determined through combining interview data with pre-existing literature.

2.3.2. Concept of ‘Expert’ and Selection of Interview Partners

After determining the rationale behind conducting semi-structured expert interviews, it is now necessary to delineate, first, the notion of ‘expert’ and, second, on which bases the interviewees were selected.

According to Meuser and Nagel (2009), an expert is a

- Person who is responsible for the development, implementation or control of solutions/strategies/policies;
- Person who has privileged access to information about groups of persons or decision processes.

Brinkmann et al. (1995) add another criterion. According to them, experts are those people who have competence over a particular issue or question. For them, competence stands for two points: ‘First, competence is the possession of extensive knowledge and experience on a certain issue. Second, it is the ability to give reliable and objective explanatory statements as well as to make the information useful for practical purposes’ (cited in Sezgin 2008:68). Indeed, these criteria also refer to the relevant capital of interviewees and their degree of involvement in the field. In this context, here, ‘interviewees are of less interest as a (whole) person than their capacities of being an expert for a certain field of activity’ (Flick 2006: 165). In other words, these people were included into the research not as a ‘single case’ but as ‘representing a group’ (ibid.).

In the light of these criteria as well as of the theoretical and conceptual works on the securitization of migration, the following groups of ‘experts’ were included into the research:
1) Politicians

2) Bureaucrats

3) Security Professionals

4) Academics

5) Representatives of Non-State Organizations (NSOs) (including Non-Governmental Organizations (NGOs) and Inter-governmental Organizations (IGOs))

If we look at each group separately, politicians have crucial amount of social capital in the field of security/migration. This is mainly because they have ‘constitutional legitimacy’ to form, influence and change practices (Balzacq 2005: 189). Most importantly, as they directly involve in legislation and decision making processes, they are supposed to provide great deal of information, which are not always found in academic works or in other public sources. Therefore, politicians from the national parliaments as well as from the European Parliament (EP) constituted one of the most important panels in getting deep insights into specific legislations and practices in the course of this research. They were chosen with a maximal variation in order to eliminate the problem of bias towards a certain political view. To be more precise, for each case, interviewees were selected from different political stances ranging from left, liberal to the right wings in order to explore the securitization process from divergent point of views. Those interviewed were the persons in charge of migration and minority issues in their respective parties and involved closely in the activities and decision-making processes as regards to the issue. One important point needs to be underlined is that that it was easier to convince members of left and liberal parties than those of right and conservative ones. Those belonging to the latter group declined the interview requests on the grounds of a lack of time or of expertise on the research topic. Yet, after contacting insistently by e-mail and phone, they were also persuaded to give an interview.
Secondly, as pioneered particularly by the Paris School, bureaucrats and security officials play a kernel role in the implementation of technocratic processes as well as in reproduction of certain kind of ‘security knowledge’. Hence, information provided by these persons contributed a lot especially to the understanding of technocratic-based securitization and its rationale. However, an important challenge faced during the research period is that it was not easy to get access to these groups. They were not keen to give an interview, as they mostly asserted that they were not allowed to do this or the subject of the research was ‘political’ thereby having directed me to politicians. Despite these difficulties, it became possible to have limited but well-targeted interviews. For national cases, the bureaucrats from Ministry of Interior in Germany (as migration issue is under the responsibility of this Ministry) and from the Ministry of Labor and Immigration in Spain were interviewed. On the other hand, for the EU case, interviewees were mainly chosen from the European Commission (EC) Directorate-General Home Affairs, Justice Freedom Security (DG JFS). They specialize in asylum, immigration and border issues. Besides, an expert from European Data Protection Supervisor (EDPS) was also interviewed in order to obtain specific information on data surveillance measures. As regards to the security professionals, again, a limited number of interviews provided valuable contribution to this research. For national cases, they were selected from the respective police forces engaging in immigration issues; namely from Federal Police (Germany), and Civil Guard (Spain). Also in case of Germany, a person with a military background and working for the UN was also interviewed. For the EU case, interviews with a staff of United Nations Interregional Crime and Research Institute (UNICRI) and of Frontext were conducted.

In the methodological discussions of the securitization literature, academics are not mentioned as ‘experts’ from whom significant insights could be drawn. However, they
were included into the research. This decision was based on several reasons. First, it is stated in the literature on interviews that ‘the fact that the interviewer and the interviewee share a common scientific background or relevance of the research can increase the level of motivation on the part of experts to participate in an interview’ (Bogner et al. 2009: 2). This was also well manifested in the course of this research. The academics were the less problematic group in terms of their willingness to give an interview. Hence, it became possible to have interviews with various academics specializing in different aspects of the research topic, as outlined in the following tables. Apart from this practical reason, most importantly, academics working on similar research topics are endowed with valuable theoretical and practical knowledge regarding the issue under investigation. Third, another important, but a hidden one, is that as Meuser and Nagel (2009) point out, a new relationship between science, politics and general public have come into being. This is particularly reflected itself in ‘emergence of a new type of research that is characterized by its practical relevance, project-like nature and transdisciplinarity, that is the inclusion of the knowledge spread across a range of very different actors’ (Bogner et al. 2009: 7). It is in this respect and given the background and qualities of the academics included into the research, interviews with them offered not only theoretical insights, necessary to structure the analytical framework of the research, but also empirical findings that could be crosschecked with the ones that were gathered for this study. More precisely, the interviewed academics have already offered outstanding works on migration in general and migration/security nexus in particular; some of them involved in directly decision-making processes; others have hold positions at research centers and think tanks working for migration or security issues. Besides, they have also actively engaged in the field through directing projects in cooperation with governmental and non-governmental bodies.
Similarly, inclusion of the representatives of NSOs to the research is also related to changes in knowledge production, described above. In particular, representatives of the NSOs were distinguished as experts on the ground that they ‘have acquired specialized problem-solving and analytical knowledge’ that is relevant to the research topic (ibid.). In other words, these actors gain ‘special knowledge through their activity – and not necessarily through their training – because they have privileged access to information’ (Meuser and Nagel 2009: 24). In the course of the research, the interviewees were selected from those NSOs that are active and visible in public space through lobbying, conducting campaigns or raising people’s awareness. They have conducted various projects scrutinizing the practices of the member states and the EU. Again, as in case of academics, I did not have any trouble to get access to them. Without revealing their individual identities, among the interviewees were people from AI, Refugee Council Hamburg, ENAR, IOM, United Nations High Commissioner for Refugees (UNHCR), The Spanish Commission for Refugee Aid (Comision Española de Ayuda a Refugiados, CEAR), the European Union Trade Union Federation (ETUC), Austrian Asylum Coordination, Caritas Europe, Barcelona Center for International Affairs (Centro de Estudios y Documentación Internacionales de Barcelona, CIDOB) and Real Institute Elcano.

After having extensive literature review and internet search, most of these interviewees were contacted via e-mail describing the purpose, content and function of the research in a detailed manner. Besides, they were also informed about the general framework regarding the questions. With those having accepted the interview requests, appointment was arranged and the meetings took place mostly at their offices. One additional note is that after having carried out number of interviews, it became possible to extend the circle of experts. More precisely, they referred me to other experts holding similar or different positions. As already mentioned, before conducting interviews, basic
open interview guide, focusing on general topics, but avoiding closed questions, was prepared in accordance with the expertise of the interview. Besides, the interviewees’ field of expertise was investigated beforehand in order to acquire the ‘thematic competence’; thereby guaranteeing the productiveness of the interviews (see Meuser and Nagel 2009: 32). As Pfadenhauer (2009) puts it aptly, ‘Since the expert’s impression of the interview influences the type of knowledge he/she will communicate in the interview, relevant expert knowledge can only be obtained through professional reference to the expert’s actual relevance system’ (Bogner et al. 2009: 8). Similarly, as Meuser and Nagel (2009: 31-32) contends, such a background research on the field of experts would avert the danger of ‘presenting oneself to the expert as an incompetent interviewer.’ Most importantly, for them, ‘Such a renunciation would also mean taking a wrong course methodologically, as the focus is not on the individual expert’s biography but on action strategies and criteria of decision-making connected with a particular position’ (ibid. 32).

The following table illustrates the interviewees for each case study. As their identities kept anonymous, a certain codification was developed to be used when integrating their data into the research. In particular, the abbreviations indicated in the table below were employed when referring to an interviewee. Besides, the affiliated institution of the interviewee was also mentioned when it was supposed to be necessary in the course of citation.
### Tables 2.3. Interviews for the EU case

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<td>24.04.2009</td>
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<td>AG₇</td>
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### Tables 2.5. Interviews for the Spanish Case

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<td>Observatory of the Penal System and Human</td>
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2.3.3. Interviewing Phase

At the outset, as regards to the type of interaction between the interviewer and interviewee, certain conceptual and theoretical explanations need to be detailed. There are various arguments on the most appropriate interview style and strategies to gather useful information for the research. In relation to these concerns, positivist, and post-positivists formulate different positions. First, positivists advocate a clear-cut separation between interviewers and interviewees and propose the stance of ‘neutrality’. To put it differently, they argue that interviewer should protect the neutrality in order to avoid influencing
interviewees’ talk or contaminating interview data (Ackroyd and Hughes 1992; Weiss 1994). In this context, interaction should be strictly defined by the research protocol. Indeed, positivists only become seriously interested in interviewer-interviewee interaction when interviewers have departed from this protocol (Brenner 1981; Silverman 1985).

On the other hand, those following a post-positivist line of thinking are against this rigid formulation and provide alternative explanations (see Rapley 2004: 19). One of them is the technique of ‘rapport’. It is based on the idea that interviews should follow ‘suitably relaxed and encouraging relationship [...] The interviewer must communicate trust, reassurance and even likeableness’ (Ackroyd and Hughes 1992: 108). It is believed that such a stance makes participants feel much more comfortable; so more communicative. Proponents of this approach argue that ‘neutrality’ can pave the way for a hierarchical and asymmetrical relationship, which, in the end, renders the interviewee as a mere research object. On the other hand, if the interviewer also talks about his/her own ideas, experiences, the interviewee can be ‘treated’ as human being. This is asserted as one of the roadmap towards attainment of ‘deep closure’ (Oakley 1981; Douglas 1985). The interpretativist paradigms mostly defend this standpoint, especially those constructivists, who believe in the locally and contextually constructed knowledge.

Another similar approach, named ‘cooperative self-disclosure’, calls also for a ‘strict or complementary reciprocity’ meaning that interviewer has to reveal his/her personal experiences, emotions and engage in an exchange of ‘some form of help, assistance, or other form of information’ (Johnson 2002: 109; see also Douglas 1985). The last approach, which was also applied to this research, is the ‘cooperative work’ proponed by Holstein and Gubrium (1995). It stands against ‘neutrality’; however, it does not follow the radical informal position pioneered by ‘rapport’ and ‘cooperative self-disclosure’. In particular, it is argued that interviewer should not be passive observer; rather, through engaging in an
active talk, such as, about others’ experiences, views, opinions, he/she has to direct the interviewee for gathering more and detailed information (Rapley 2004: 22). This is mainly related to the fact that being neutral in a strict sense is a difficult task; because in order to find out right answers, the researcher has to interfere to the talk, guide the conversations, and in certain cases, ask follow up questions. This mode of interaction is particularly necessary in order to stimulate discussions and gather as much information as possible. As noted by van Audenhove (2012: 30), sharing ‘some of your knowledge, thoughts, insights is helpful to keep interviewee interested and [balance] positions; methodologically not problematic’ as ‘expert is not easily influenced and is used to defend position’. Relying on its benefits, ‘cooperative work’ was applied in the course of this research carefully. More precisely, this does not mean that interviews were conducted in a way to reveal my personal views on the issue, which might have led to a deep disclosure; rather in a more facilitative way through follow-up questions (see Rapley 2004: 21). Besides, as mentioned already, interviewees were asked to express ‘factual’ information rather than their own personal views. This, again, prevented excessive self-disclosure and made possible to gather empirical data. In a similar vein, as indicated before, they were taken ‘as “crystallization points” for practical insider knowledge and [were] interviewed as surrogates for a wider circle of players’ (Bogner et al. 2009: 2).

Accordingly, the common questions concerned with

- their opinions regarding the migration/security nexus;
- the impact of the September 11 and subsequent attacks over this nexus;
- how/whether counter-terrorism debates have structured the notion of the freedom of movement in general and migration in particular.

Then specific questions in accordance with the expertise of interviewees and the practices to be analyzed were asked. As already detailed, several practices that are put
under the remits of external and internal securitization are the focus of this research (see Table 2.2.). In this context, the interviewees were asked to evaluate the relevant changes regarding these practices in the light of the post-September 11 period and counter-terrorism debates. If the changes in these fields were not linked to the threat of international terrorism, then, they were asked to detail the driving rationale behind them. For the national cases, some more specific questions were also utilized. The interviewees were also asked to compare the developments in Germany and Spain in a European context and detailed the reasons of differences and similarities. This provided the research with rich analytical and conceptual information to conduct the comparative analysis.

2.3.4. Transcription and Analysis of Interviews

During all of the interviews, a voice recorder was used upon permission. The interviews were mostly conducted in English. Yet, a limited number of interviews were carried out in the native language of the informants as well, namely in German, Spanish, and Turkish. The reason is twofold. First, these interviewees, whose native language was German or Spanish, had limited knowledge of English; so they preferred to conduct the interviews in their native language. Second, with Turkish informants, Turkish was chosen as the language of interview, as it is also my native language. Translations of these interviews not conducted in English were done carefully through remaining true to their original contents. Interviews lasted on average between forty-five to sixty minutes. Despite the high number of interviews, they were transcribed in whole in order to represent and explore the full meaning of interview data in a contextual and coherent manner. Besides, as mentioned already, the identities of interviews were kept anonymous as requested in the course of citations.
As regards to the analysis of interview data, each interview was divided into thematic fields and codified in accordance with the interview topics and thematic questions focusing on the practices to be studied and compared (see Table 2.2.). More precisely, these texts fragments were categorized under the multiple keywords according to key questions and practices under investigation. The information provided by an interviewee was analyzed and compared with each other within these thematic fields. The thematic analysis and comparability of the interviews could be placed on a secure methodological and analytical footing by the following elements (Sezgin 2008: 70): ‘1) Similar text passages were gathered through the standardization of key questions; 2) Interviewees were asked to represent the views of their affiliated organizations, if there were any or to reflect the ‘current state of affairs’ rather than their own personal beliefs; 3) The general features of the interview contents were examined within comprehensible and revisable analytical units to make successful comparison and detailed evaluation possible.’ Finally, they were integrated into the corresponding parts in the research. In doing this, as proposed by Meuser and Nagel (2009: 35), in order to ‘give away reality’, citations followed ‘the unfolding of the conversation and give account of the interviewee’s opinions.’ Moreover, mostly a direct citation was used and the terminology of the interviewees were retained in order to ‘keep close to the text’ (ibid. 36).

Another important point is that in order to ensure reliability of the information, interview transcripts were studied alongside other data gathered through documentary research. In other words, as mentioned already, the method of ‘triangulation or cross checking of data’ was applied. As stated by Esterberg (2002), in-depth interviews can give information about interviewees’ perceptions, thoughts and opinions, but their talks do not always match to their practices. By the same way, analysis of documentary data on the issue can tell us more about some form of factual information or ‘social ideals for the
behavior’, but not about how people perceive the existing situation (ibid. 36-37). In this sense, the strategy of cross-checking of the interview data with other sources provided this research with a higher level of validity and reliability and helped not only evaluate the accuracy of participants’ responses but also of ‘factual information’ derived from the interview data.
3. **Securitization of Migration in the EU**

By various interviews, and in the securitization literature, it was stated that the September 11 and subsequent attacks in Madrid and London have changed and restructured migration practices of the EU in a more securitarian way.\(^{24}\) However, it was also reserved that the terrorist attacks cannot be considered as a radical break; the process has been already in place. Furthermore, several interviewees and scholarly written works pointed to the other concerns, such as ‘fight’ against irregular immigration and reducing number of asylum seekers and refugees, which, they believe, are still more decisive in the securitization process.\(^{25}\) For them, the securitization process, which is to be characterized by defensive, exclusionary and illiberal practices, started long before the September 11 period in order to keep ‘unwanted’ migrants away from the EU territory; yet international terrorism has facilitated the implementation of more stringent practices.

Within this context, this chapter will, first, give a historical background analyzing the pre-September 11 period from 1975 to 2001. This historical background will serve as a basis to reveal the changes and continuities in the practices administering the issue of migration. This will be followed by the major focus of this study, namely the analysis of the practices that have been in place from the September 11 attacks to the late 2010. Taken together, this chapter will assess whether migration issue has been integrated into a security framework emphasizing ‘policing and defence’ and aiming at excluding and containing certain group of migrants deemed to be a threat to European security. Most prominently, it will delineate whether a security continuum has been established between migration and security concerns; whether there emerged a convergence between migration and counter-

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\(^{24}\) More particularly, these views were put forward by the following interviews, which were conducted at the EU level: AE\(_1\), AE\(_2\), AE\(_3\), AE\(_4\), NSOE\(_1\), NSOE\(_2\), NSOE\(_3\), PE\(_3\), PE\(_4\), BE\(_4\) and SEE\(_1\).

\(^{25}\) Some of the interviewees pointed to the continuity regarding the migration practices in the post-September 11 world, while accepting that the September 11 and subsequent attacks have served to justify more draconian measures (e.g. AE\(_1\), AE\(_2\), PE\(_3\), and NSOE\(_3\)).
terrorism practices in the post-September 11 period and migration practices have turned into a tool for countering terrorism. In doing this, as foregrounded in the previous chapter, the post-September 11 period will be examined under two major headings including the following practices:

a) External Securitization:
   - Practices administering the entry/admission of would-be migrants
   - Technologized border control practices
   - Militarized border control practices

b) Internal Securitization:
   - Internal surveillance practices
   - Integration practices
   - Removal or return practices

3.1. Historical Overview: The Pre-September 11 Period

3.1.1. Early ‘Laboratories’

Until the Maastricht Treaty of 1992, immigration and asylum issues were dealt with outside the Community framework, thereby having being exclusively subject to the jurisdiction and control of member states. Yet, this does not mean that member states did not create any form of cooperation. In fact, these early cooperation prepared the fundamental base for the following policy approaches. Especially, in quest for the establishment of the Single Market, which envisaged the abolition of internal border controls within the EU, various steps were taken. According to Monar (2001), these can be called ‘early laboratories’ which triggered the rapid development and expansion of Justice
and Home Affairs (JHA) into a major field of the EU policy making. The following will detail these ‘early laboratories’.

3.1.1.1. TREVI Group

The first step came into being with the creation of the TREVI Group by twelve European countries during the Rome European Council, 1-2 December 1975.26 This was chiefly formed as a response to the terrorist attacks during the 1972 Olympic Games in Munich and to the emergence of radical left-wing groups in various European countries (Puntscher Riekmann 2008: 19). More precisely, fed by the 1960s anti-capitalist political movements against the American policies in Vietnam and by upheavals in the Middle East caused by Israeli-Palestinian conflict, various radical-left groups became active across Europe. For example, the Irish Republican Army in the UK, the Baader-Meinhof Group and later RAF in Germany, and Red Bridge in Italy conducted a range of attacks throughout the 1970s. Most importantly, these groups gained transnational character and started to cooperate with groups outside their country of origin for logistical and financial support (Mitsilegas et al. 2003: 22). This mobilized member states to cooperate against ‘extremism’ and ‘terrorism’ under the TREVI framework. Furthermore, in the meantime, drug trafficking and money laundering, which came to be seen as ‘problems that should be tackled at a regional level rather than on a national level’, were integrated into the scope of the TREVI (Benam 2011:24). However, despite TREVI’s initial emphasis on combating terrorism and cross-border crime through information exchange and police cooperation, migration issue was also inserted into its frame in the following years, namely during the late 1980s (Guild 1998: 622). A special working group, which was made up of Interior Ministers, Interior/Home Ministry officials, senior police officers, immigration and custom

26 These countries were Belgium, Denmark, France, Greece, Ireland, the UK, Italy, Luxembourg, Germany, the Netherlands, Portugal and Spain.
officials, and internal security service representatives, was established under the TREVI (Bunyan 1993: 1). As in cases of all other TREVI group meetings, this working group met in secret and outside the scrutiny of the EP, the EC and the European Court of Justice (ECJ) (ibid.). In this context, where democratic oversight was absent, its main focus became preventing irregular immigration and abuse of asylum system (Loescher 1989: 630). Indeed, according to Juss (1993: 7), this focus reflected the general trend dominating the North European Countries at that time, which closed their door to migration in the wake of oil crisis of 1970s; thereby having favoured a more restrictive, exclusionary and securitarian stance towards asylum seekers and immigrants.

Under these circumstances, the aim of the group, its institutional composition and convergence of different issues under same framework can be conceived as ‘the first attempt to link migration to European internal security via the question of terrorism’ (van Munster 2009: 25) and reveal ‘a two piece association of ideas, i.e. migrant/refugee “suspect person” potential terrorist’ (Storey and Kennedy 1992). Within this setting, although the initial impetus to form the TREVI group was to tackle terrorism and crime, in Geddes’s words, it ‘provided a setting for a wider range of issues as European integration progressed through the 1980s’, and, most importantly, ‘a “security” frame into which migration issues were inserted when they rose up the political agenda from the late 1980s’ (Geddes 2003: 130). It ceased to exist after having being integrated into the Community framework upon into force of the Maastricht Treaty in 1992.

3.1.1.2. Ad-Hoc Working Group on Immigration

The second major ‘laboratory’ was put forward with the establishment of the Ad-Hoc Working Group on Immigration (AHWGI) in 1986. Indeed, this group developed out of the TREVI and, therefore, reflected similar institutional settings. Namely, it was
composed of interior ministers, security experts and ‘high-level immigration policy officials from the member states and dealt with asylum, external frontiers, forged documents, admissions, deportations, and the exchange of information’ (ibid. 132).

Besides, ‘restriction and secrecy’ were again the ‘paradigm prevailing’ in the policy making (Joly et al. 1997: 22). The main objectives of this group were to tackle the so-called ‘abuse of asylum system’, rising number of asylum applications as well irregular immigration (Heisler and Layton-Henry 1993: 164; van Munster 2009: 29). As regards to asylum issue, the AHWGI, one the one hand, underlined the necessity of admitting those asylum seekers in risk of persecution in line with the Geneva Convention. On the other hand, it stated that ‘it regularly occurs that the request for political asylum is abused’ and proposed ‘pre-departure identity checks, strengthening of procedures for examining requests and measures against false documents […] to combat this abuse (TREVI/AHWGI 1987). As Lavenex (2001: 100) puts it, the main rationale structuring this cooperation was the expected ‘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.’ Accordingly, for Schlentz (2010: 17), ‘this confirmed the shift of asylum and immigration from the humanitarian ‘low politics’ to the ‘high politics’ of security.’ As will be discussed in the following sections, this rational was truly reflected in the Dublin Convention, which was prepared by this Group and which limited the right to seek asylum in Europe by the way of integrating above-mentioned proposals and through underlining the necessity to counter the so-called abuse of the asylum system.

As regards to immigration issue, this group constructed a direct linkage between irregular immigration and criminality. To be more tangible, in the course of the AHWGI declaration, it was stated that abolishment of internal borders should not restrict the
‘efficiency of controls from the point of view of the fight against illegal immigration from third countries, drugs and crime’ (TREV/1AHWG 1987). By this way, irregular immigration was depicted as a problem that should be dealt with alongside criminal issues. Moreover, the declaration directly referred to ‘problems of immigration in general’ and underlined the necessity to implement more stringent visa policies and external border controls in order to mitigate the possible negative outcomes stemming from the opening of internal borders. Against this backdrop, it is reasonable to assert that the AHWGI triggered decisive steps towards the securitization of immigration and asylum through linking them with criminality and framing them as problems in the face of abolition of internal borders. In other words, following Huysmans, it clearly integrated migration into a security framework emphasizing ‘policing and defence’. Furthermore, it prepared the ground for the migration/asylum nexus whereby the line between irregular immigration and asylum has been blurred.

3.1.1.3. Schengen Agreements

Following the adoption of the Single European Act (SEA) in 1986, which called for the abolition of internal border controls in order to ensure the free movement of people, goods, services and capital; thereby creating an area without internal borders after a transitional period ending on 31 December 1992 (SEA: Article 13), the necessity to cooperate in the field of immigration and asylum became much more urgent. It is argued that the SEA prompted an ‘internal security ideology’, which concerned with the possible emergence of a ‘security deficit’ with the opening of internal border controls (Hebenton and Thomas 1995; Bigo 2005; Tsoukala 2005). At this juncture, the introduction of the SEA and abolition of internal border controls have had important repercussions for the
conceptualization of internal/external sphere and the governance of security. Pastore (2001: 2) posits that

[The] unification of the European space was presented in the dominant political discourse as a major positive achievement, which had nevertheless some negative implications. Lifting controls and restrictions to intra-European circulation of capital, goods, and persons would create – it was said – new opportunities for crime and other forms of [irregular] activities. Internal security risks, which until then had been apprehended and tackled at the national level, within the reassuring, enceinte of state borders, now needed to be redefined and countered at the European level. With a somewhat puzzling linguistic twist, internal security was now defined and treated as a European matter.

To put it differently, as discussed already, internal and external security concerns came to be converged parallel to the European integration process and it was believed that the EU without internal borders could be heaven for irregular immigrants and by extension for criminals and drug traffickers (Karanja 2000). In a similar vein, Huysmans (2000: 758) asserts that the securitization of internal market prompted the securitization of migration, as the abolition of border controls was believed to facilitate intrusion of certain ‘risks’, including irregular immigrants, drug traffickers and terrorists, who were viewed and represented as a threat to public order and rule of law. Accordingly, the problem has become:

[n]o longer, on the one hand, terrorism, drug, crime, and on the other hand, rights of asylum and clandestine immigration, but they came to be treated together in the attempt to gain an overall interrelation between these problems and the free movement of persons within Europe (Bigo 1994: 164).

Against this backdrop, the introduction of the Schengen Agreements can be seen as ‘an alternative opening’ against the resentment invoked by the free movement of people (Lavenex 2001: 27). The first Schengen Agreement was signed initially among the
Benelux countries, West Germany and France in 1985. This agreement became much more elaborated through the Convention Implementing the Schengen Agreement (CISA) – also known as second Schengen Agreement- which was signed in 1990. Similar to the TREVI and the AHWGI, these Agreements initially developed out of the Community framework. Even though this Schengen system envisaged a ‘borderless Europe’, whereby freedom of movement was to be ensured, it redefined border controls in a more stringent way. In particular, in order to tackle the alleged ‘security deficit’ stemming from the abolition of internal border controls, the emphasis was put on ‘compensatory measures’ (Anderson et al. 1995; Lavenex 2001). With respect to this, Benam (2011: 33) contends that:

The notion of ‘compensatory measures’ constitutes a crucial turning point in constructing a ‘securitized’ mentality regarding external borders and movement of people, which gave security agents a rather free hand to reflect their nightmares into policy making. Here, through compensatory measures the risks are claimed to be averted.

Anderson and Bort (2001: 58) specify these compensatory measures as follows:

- Strict control of the external frontier according to common rules, contained in the confidential Schengen manual for the external frontier, and common visas;
- A coordinating committee and technical inspections of the external borders of all member states (and candidate countries) to ensure that they meet the agreed standards;
- Exchange of information on prohibited immigrants, wanted persons, stolen vehicles through the Schengen Information System (SIS), a computerized data base;
- Data protection in the form of an independent control board with a uniform code of rules;
- A task force to analyze intelligence about the role of organized gangs for smuggling [irregular] immigrants into the EU;
- The establishment of national offices of SIRENE (Supplement d’Information Requis a l’Entrée Nationale) to deal with difficulties and emergencies;
• Enhanced police co-operation and judicial co-operation between the participating states, particularly in the frontier regions;

• Movement towards a common visa, asylum and immigration policy.

As evidenced by these measures and foregrounded in the securitization literature, the Schengen Agreements initiated a process, which emphasized control of rather than facilitation of free movement and which interlinked issues of border control, migration, organized crime, etc. each other under a security umbrella (Bigo 1996 cited in Huysmans 2006: 85). To make these issues more tangible, it is necessary to detail some of these measures. The first one is the move towards a harmonized and unified visa policy for short-stay not exceeding 3 months. Article 7 of the Schengen Agreement clearly verifies how security concerns prevailed over the declared objective – that is ensuring the freedom of movement within the internal sphere, in the formulation of this policy:

The Parties shall endeavor to approximate their visa policies as soon as possible in order to avoid the adverse consequences in the field of immigration and security that may result from easing checks at the common borders. They shall take, if possible by January 1986, the necessary steps in order to apply their procedures for the issue of visas and admission to their territories, taking into account the need to ensure the protection of the entire territory of the five States against illegal immigration and activities which could jeopardize security (Schengen Agreement: Article 7).

At the time of the CISA was applied, nationals of 126 countries were subject to visa obligations and only nationals of 20 countries were exempted from this requirement under Schengen rules (Tirse'n 1997). However, in the meantime, the lists of countries targeted by visa requirements or exempted from such an obligation were not truly harmonized. As the following pages will demonstrate, the EU took fundamental steps towards reaching a full harmonization in this field from the late 1990s. For now, it is enough to mention that chiefly nationals of poor and underdeveloped world became subject to the visa requirement
and the exempted groups were nationals of the Organization for Economic Cooperation and Development (OECD) and North American countries. In this respect, it can be argued that a pre-emptive approach towards nationals of certain countries turned into the guiding rationale in issuing visas. This very rationale informed the practices of ‘policing at a distance’ which aim at differentiating ‘undesirables’ from ‘desirables’ ‘before the individuals enter a given territory’ (Guild and Bigo 2005: 234). As regards to this discriminatory character of visa practices induced by the Schengen system, Guild and Bigo assert that:

> [t]he intention is to identify groups of persons who might more likely than others constitute a risk. This group is then subject of an additional level of control on their potential access to the territory of the Union. The tool is the visa list, which on the basis of nationality, categorizes persons as ‘more’ or ‘less’ likely to be a risk. For those persons who are considered a potential security risk on the basis of their nationality, a special control in the form of a visa requirement is imposed. This has the effect of moving the effective border for these persons to their own state (ibid. 239).

Second compensatory measure can be identified as the first step towards the technologization of migration practices through introducing the SIS, which became operational in 1995 among seven member states, namely France, Germany, Belgium, the Netherlands, Luxembourg, Spain and Portugal. Main aim of this system, as laid down in Article 93 of the CISA, is to maintain:

> public order and security, including state security, and to apply the provisions of this convention relating to the movement of persons, in the territories of the contracting parties, using information transmitted by the system.

It is based on ‘hit/no hit’ system which provides that ‘whether information on a person or object exists within the system, thus alerting police officers, border guards and custom officials across the Schengen area to persons and items that may pose an
immigration and security risk’ (Parkin 2011: 4). Under the CISA, following categories of persons were included into this system:

- Persons wanted for arrest or extradition purposes (Article 95);
- Third country national (non-EU and non-EEA citizens) to be refused entry to the Schengen area (Article 96);
- Persons missing or to be placed under temporary police protection (Article 97);
- Persons sought by judicial authorities in connection with criminal proceedings (Article 98);
- Persons who are to be subject to discreet surveillance or specific checks (Article 99).
- Lost or stolen objects (Article 100).

And the personal data shall contain the following information:

- Surname and forenames, any aliases possibly entered separately;
- Any specific objective and physical characteristics not subject to change;
- First letter of second forename;
- Date and place of birth;
- Sex;
- Nationality;
- Whether the persons concerned are armed;
- Whether the persons concerned are violent;
- Reason for the alert;
- Action to be taken.

From the beginning of its functioning, most of the data stored in the SIS concerned with third-country nationals to be refused entry - that is around %90 of all data (see
According to Article 96, third-country nationals in the SIS database can be grouped under two categories. First, on the basis of national security or public policy grounds, the data may include information on third-country nationals, who are convicted for an offence, which is penalized by a deprivation of liberty of at least one year or who are suspected of either having committed serious criminal offences. Besides, this first category involves data about third-country nationals deemed to commit serious criminal offences on the basis of serious suspicion. The second category is consisting of third-country nationals, who have not complied with immigration law and therefore they may be denied entry or visa or even subject to detention or expulsion.

With respect to certain points, the SIS signifies a clear securitization of migration. First, at the outset, its official aim – that is maintaining and ensuring ‘public policy and public security, including national security’, demonstrated how security considerations prevailed in its introduction. Most importantly, pooling migration issues with criminal matters under the same framework illuminated that a security continuum between migration and security was constructed. As mentioned above, under this system, data of migrants and criminals are kept together (see Lavenex 1999). Furthermore, as all police forces were allowed to access to the SIS, the policing, therefore, securitization aspect of this tool was reinforced. Against this backdrop, Parkin (2011: 5) asserts that ‘the close association between immigration, criminality and law enforcement that has become an increasingly common feature of EU migration law and policy is crystallized within the SIS.’ In a similar vein, van Munster (2009: 22) puts it, Article 96 of the CISA explicitly links (irregular) immigration to ‘crime, public order and policy’, if not to terrorism.

Apart from this explicit linkage between migration and security, various scholars and civil rights organizations raised their concern over the deficiencies of the SIS relating to the purpose and quality of the data stored in the system (Brouwer 2008; Hayes 2008;
As regards to the first point, criticisms centered on the lack of clear definition for the purpose of data stored in the SIS. As Parkin (2011: 6) remarks, there is a risk of breaching ‘the purpose principle enshrined in data protection law’. To be more precise, the SIS included both ‘law enforcement information’ (e.g. persons wanted for arrest) and border control and immigration information (e.g. banned third country nationals’) (ibid.). In this context, it is not clear which authorities were to be allowed to access to the SIS data and for which purposes. Second point relates to the fact that Article 96 did not provide clear criteria to be invoked as grounds for the refusal of entry. In fact, these grounds were defined so vague – namely as public security and national security concerns – that could give a room for different and wide interpretations across member state (Guild 2001; Guild and Bigo 2002). Owing to the grave consequences of being reported in the SIS, including refusal of entry, detention or expulsion, quality of the data and criteria used in setting up the grounds for these exclusionary and securitarian measures are of utmost importance.

Another field that felt under the scope of compensatory measures is the asylum issue. The CISA introduced new approaches and practices aiming at restricting asylum seeking applications. At the outset, one point should be mentioned. The drift towards restrictive asylum measures was not only driven by the European integration process and the emerging ‘Schengenland’; but also induced by the geopolitical transformation following the end of the Cold War. The fall of Communism, and subsequent changes in ex-Soviet republics, led to significant increase in the number of asylum seekers and refugees at a time of deep economic recession (Juss 2005: 759-750). Closely linked to this changing political conjecture, as one of the interviewee stated:

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27 The same points were mentioned during various interviewees (e.g. AE₁, PE₄, BE₄ and NSOE₃).
There emerged a sudden shift in the discourses and practices. For instance, previously, a humanitarian outlook governed both discourses and policy frameworks; there was a quest for “freeing” these people from communist regimes. However, following the fall of iron curtain, everything changed. Particularly, right-wing politicians started to invoke securitarian discourses and policies, which framed immigration from ex-Communist bloc, as a possible threat to welfare of their societies and which linked it with criminality (PE₄).

Within this context, it is more understandable why especially those major refugee-receiving countries in the EU, like Germany, Austria, France and the Netherlands, started to implement restrictive practices towards asylum seekers and irregular immigrants and pushed the similar ones at the EU level (AG₃). As Lavenex (2001: 29) puts it, their main concern has become the ‘redistribution of the responsibility’ for dealing with refugees, asylum seekers and irregular migrants. She details further that:

The official idea was to compel the traditional transit countries of Southern Europe to tighten up their external borders in order to avoid ‘porous borders’ and losing control over the entry and stay of third-country nationals on the common territory. Another, unofficial effect was a redistribution of refugee flows away from the main receiving countries by placing the ‘burden’ of control on the traditional transit countries of the South […] and the East (ibid.).

For this aim, namely to limit possibilities of seeking asylum in Europe, Article 23 and 28-38 within Chapter 7 of the CISA, put forward the following regulations:

‘introduction of the category of applications that are evidently untrustworthy or falling outside the refugee definition; the rule that asylum request should be made and dealt with in the country the request could have been made first (within Europe or any other country); sanctions for companies that carry individuals without necessary entry documents; special preliminary procedures to sort out “the manifest unfounded” or wrongly addressed asylum requests’ (Tholen 2004: 328-329). As it is seen, previous years’ humanitarian stance
shaping the European approach was abandoned and uncovering ‘authenticity’ of the asylum applications was emphasized. Shortly, ‘bogus’ asylum seekers came to be dominant theme within the EU (BE₁; PE₄; NGOG₂). Most importantly, control mechanisms were externalized and privatized – e.g. by the way of shifting responsibilities for dealing with asylum seekers into other countries and private actors, here carriers, in order to prevent asylum seekers from lodging their claims within the EU from the very beginning. Within this context, access to international protection became conditional upon ‘not on the refugee’s need for protection, but on his or her own ability to enter clandestinely the territory of another country’ (UNHCR 1994). One important note is that this Schengen system was integrated into another important Convention, that is the Dublin Convention, signed on 15 June 1990, and became in force on 1 September 1997. Even though Dublin Convention was signed four days earlier than the CISA, as Kölliker (2006: 219) puts it:

[...] Dublin is a result of Schengen, not vice versa. First, the elaboration of the Schengen provisions began much earlier. Second, those provisions also served as a model for the nearly identical Dublin Convention. Finally, the [CISA] entered into force on 26 March 1995. This was more than two years before the Dublin Convention, which only entered into force on 1 September 1997. The decision to replace Article 28-38 of the [CISA] by the Dublin Convention was made by the Schengen Executive Committee meeting at Bonn on 26 April 1994.

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28 Introduction of the carrier sanctions adopted in this context faced with severe criticism from human rights and refugee organizations. For instance, the UNHCR (1991) states that: ‘Forcing carriers to verify visas and other travel documentation helps to shift the burden of determining the need for protection to those whose motivation is to avoid monetary penalties on their corporate employer, rather than to provide protection to individuals. In so doing, it contributes to placing this very important responsibility in the hands of those (a) unauthorized to make asylum determinations on behalf on States, (b) thoroughly untrained in the nuances and procedures of refugee and asylum principles, and (c) motivated by economic rather than humanitarian considerations. Inquiry into whether the absence of valid documentation may evidence the need for immediate protection of the traveler is never reached’
In this setting, the Dublin Convention replicated the main logic of the Schengen Agreements, - that is preventing asylum seekers from making their applications in Europe (Bolten 1991). It mainly aimed at ensuring redistribution of responsibility for dealing with asylum seekers through introducing the principle of ‘first host country’ or ‘first country of asylum’. These principles allowed member states to send back asylum seekers to member states, which are designated as the first country of asylum. By this way, the responsibility to process asylum application was assigned to a member state through which these persons seeking protection entered Europe. More precisely, the Dublin Convention endorsed three fundamental principles:

1) An asylum applicant has only one opportunity to make an asylum application in the territory of the Member States and that decision, provided it is negative is respected by all of them (though there is no mutual recognition if the decision is in favor of the refugee).

2) It is for the member states to determine which member state will be responsible for considering the asylum application irrespective of the wishes of the asylum applicant;

3) Among themselves, it is the member state which permitted the asylum application access to the common territory which must take responsibility for considering the application and caring for the applicant during the process (ibid.).

Last, but not the least, the Schengen Agreements paved the way for the proliferation of intergovernmental police, custom and judicial networks, which started to deal with the issue of migration alongside security concerns, including drug trafficking, money laundering and other forms of organized cross-border criminal activities. For example, as indicated by Monar (2001: 74), due to the concerns as well as fears rising from the possible side-effects of abolition of internal border controls, between 1986 and 1991, member states established more than 20 new intergovernmental bodies relating with police
and customs cooperation (Monar 2001: 74). In the same vein, Bigo (1996: 33) states that Schengen Agreements intensified the coordination and cooperation between police and border officials among member states; but this occurred through circumventing judicial review over their activities in order to ensure the effective control of migration.

These ‘early laboratories’ demonstrate that increasing cooperation among member states also pushed forward the initial securitization moves. Parallel to the project of creating a ‘borderless’ Europe, compensatory measures, with their restrictive and security-oriented character towards (would-be) migrants, put the focus on the strengthening of external border controls and linked internal security concerns to that external ones. However, the site of cooperation between member states changed following the Maastricht Treaty, which put the intergovernmental cooperation under the Community framework.

3.1.2. Maastricht Treaty

The Maastricht Treaty (known also as the Treaty on European Union) was signed in 1992 and became effective in 1993. It institutionalized migration issues at the Community level under the third pillar of the JHA, and with the Title VI of the Treaty. The other two were called European Community and Common Foreign and Security Policy pillars. This pillar system attracted wide range of criticisms from academia. One of them state that:

[…] the pillar construction was first and foremost characterized by competing policy methods, introducing new asymmetries, inter-institutional tensions and risks of fragmentation. It also introduced problems of delineations and interfaces between pillars, in other words, “inter-pillarization” issues […] Inter-pillarization is and will remain a sensitive issue because the pillar system is the result of an ambiguous compromise between two visions of European integration which are antithetical over the long-term: on

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29 Hebenton and Thomas (1995) offer a comprehensive analysis on the intensification of police cooperation within the EU on the basis of internal security concerns relating with the abolition of borders. They argue that the process, especially starting from the Schengen led to harmonization of control and Europeanization of policing.
one side, a process of polity-building around a supranational Community; on the other hand, a battle to maintain or renovate national units through the constitution of a Europe of the States (Philippart 1998: 2-3).

Within this setting, it is more understandable that the Council of Ministers, so the member states, continued to retain their exclusive decretory power. Accordingly, decisions in the field of migration had to be taken unanimously by the JHA officials favouring a securitarian approach towards asylum and immigration issues (Juss 2005: 753). As in case of previous years’ cooperative frameworks, the EP, the EC and the ECJ were granted limited role; therefore, the basic deficiencies of previous years’ institutional set-ups and decision making process, including ‘unanimity, secretive negotiations, absence of parliamentary involvement and judicial supervision’ were maintained (Kostakopoulou 2000: 498). Furthermore, in the meantime, the JHA included nine areas, including immigration policy, asylum policy, combating drugs and fraud, external borders policy on third-country nationals, customs cooperation, police cooperation and judicial cooperation in civil and criminal matters. This signifies that, migration was again put under the same framework with the issues of illegality and criminal activities ‘in the intergovernmental Third Pillar thereby being rested ‘on the securitarian mindset and legacy of the TREV and Schengen groups’ (Schlentz 2010: 9). To put it differently, it implies that:

Maastricht retains the dangerous practice of associating asylum and immigration issues with criminality: the articles dealing with asylum policy also refer to ‘combating terrorism, unlawful drug trafficking and other serious forms of international crime” (Storey and Kennedy 1992: 3).

Even though the Maastricht Treaty inherited previous years’ structure, it also introduced new institutions, instruments, and policy frameworks. First, it authorized the establishment of the European Police Office (Europol). Indeed, the idea to create a European police organization entered the agenda in the 1980s, particularly advocated by
the German Chancellor Helmut Kohl in order to deal with differences among member states with regard to JHA matters (Mitsilegas et al. 2003: 18). However, because of the disputes among member states over delimiting their national authority in this field, this initiative was only materialized following the full ratification of the Europol Convention on July 26 1995 (ibid.). It was stated that one of its area of operation was to deal with external border controls (Rauchs and Koenig 2001). In the following years, it has become increasingly active in the field of irregular immigration alongside terrorism, human trafficking, drug trafficking, money laundering and smuggling of stolen objects principally through ensuring information and intelligence exchange (see Bunyan 1995).

Another ‘novelty’ brought forward by the Maastricht Treaty and having had important repercussions over migrants within the EU is the introduction of European citizenship (see Maastricht Treaty: Articles 17-22 and 255). This move was closely related to the intention of creating a political union and a ‘common identity’. It is widely asserted that European integration process started as an economic project; however, the silent aim behind the initiative was to protect peace and stability throughout the Europe after the World War 2. Nevertheless, until the Maastricht Treaty, ‘the cultural, political and social aspects’ had been underestimated (Martiniello 1995: 39). With the Maastricht Treaty, the introduction of European citizenship can be perceived as a signal of this awareness. Indeed, in the face of ongoing monopoly of national identities, which were to impede European integration process, European citizenship was presented as a means of enhancing the sense of feeling with the EU. Balibar (1989) opines that ‘[T]he aim of the construction of the European citizenship] is to establish the European Union as a nation and, consequently, as a quasi-nation state, resting on the building of a European culture and on an ideology of the cultural resistance of a besieged Europe against the South’ (quoted in Martiniello 1995: 44). However, its introduction sparked intense criticisms. For example, it
was argued that, introduction of the European citizenship conferred crucial socio-economic and political rights on EU citizens\(^{30}\); while third country nationals continued to have limited rights. This gap between the two groups was likely to intensify the dialectic of exclusion and inclusion based on a distinction between ‘we – Europeans’ and ‘others – migrants’ (see Martiniello 1995; Koslowski 1999; Shaw 1999). More precisely, Martiniello (1995: 46) states that:

To the extent that this European citizenship tends to be granted on the basis of belonging to one of the EU nations and on the basis of belonging to the European culture under construction, it could come to amount to the exclusion of numerous immigrants from the South and East of the world leaving in Europe, but also of those potential migrants who arrive in Europe as asylum-seekers or as a result of the family reunification process.

He further argues that introduction of the European citizenship implies that only those belonging to the European ‘cultural’ identity could gain economic or social benefits of European integration. This would further the exclusion of migrants, who have been already in Europe for a long time due to the colonialism, labour needs and other reasons, such as asylum seeking and who were constructed as an obstacle to the ‘mythical view of an ethnically, racially and culturally homogeneous Europe’ (Martiniello 1995: 47). It is clear that those, who are not nationals of member states, came to be excluded from the benefits of European citizenship and from the scope of the rights conferred by it. On the other hand, they were not freed from the obligations stemming from their residence in the EU, such as paying the taxes (see Harrison 2000). Yet, as Harrison remarks this exclusionary and contradictory character of European citizenship is inevitable as ‘to permit their inclusion could undermine any chance of creating a common identity’ (ibid. 476).

\(^{30}\) According to Article 8 under Title 2 of the Maastricht Treaty, EU citizens are granted the following rights: the right to move and reside freely on the territory of the member states (Article 8A); the right to vote and to be elected in the local elections and in the elections of the European parliament in the member state of residence (article 8b); the right to diplomatic protection in a third country (Article 8C); and the right to petition the European parliament as well as the possibility to appeal to an ombudsman (Article 8D).
As regard to asylum issue, the Maastricht Treaty pushed forward important developments as well. The ‘system of redistribution based on the ‘first host country’ principle, introduced by the Dublin Convention, was extended beyond the borders of Europe to third countries. In particular, the so-called London Resolution adopted under the third pillar on 30 November/1 December 1992, introduced the ‘safe country of origin’ and ‘safe third country” principles (see Council of the European Union 1992). Even though, these principles were adopted as ‘legally non-binding’, member states increasingly incorporated them into their legislation (Lavenex 2001: 29-20). These measures established that member states would be permitted to reject asylum claims; if it was determined that asylum seeker could lodge his/her claim in the country through which he/she entered Europe. This can be done as long as, this country is a safe country, ‘in which there is generally no serious risk of persecution’ - that is it should be a signatory of the 1951 Geneva Convention. However, as Hathaway (2005) puts it eloquently, this approach truly aimed at deterring asylum seekers from seeking protection. In particular, starting from that time, Central and East European Countries (CEECs), which were designated as ‘safe’, came to be addressed by this principle. Criticisms were raised against the application of this principle to these countries. It was argued that the terms, - ‘safe country of origin’ and ‘safe third country’ - were not defined precisely and that was likely to amount to arbitrary decisions concerning the removal of refugees and asylum seekers (NSOG₁). Further, it was stated that there were not enough safeguards to ensure that these countries would not send him/her back to the state of persecution (ibid.). In fact, as it is contended, these principles do not comply with the principle of non-refoulement enshrined

31 The Article K.2 of the Maastricht Treaty also made a reference to the Geneva Convention, it also provided a leeway for member states by stating that ‘this Title shall not affect the exercise of the responsibilities incumbent upon Member States with regard to the maintenance of law and order and the safeguarding of internal security’ (Maastricht Treaty: Article K.2)
in the Article 33 of the Geneva Convention prohibiting state to follow practices of indirect refoulement as well (Foster 2007: 244). As it is laid down in one of the court judgment:

Article 33 can be breached indirectly as well as directly. Thus for a country to return a refugee to a state from which he will then be returned by the government of that state to a territory where his life or freedom will be threatened will be as much a breach of Article 33 as if the country had itself returned him there direct. This is the effect of Article 33 (House of Lords 2000).

Most importantly, the Maastricht Treaty introduced a new database in order to implement the Dublin Convention effectively. This was the Eurodac database, which stands for European Dactyloscopy. It was initially envisaged for asylum seekers and aimed at preventing the so-called ‘asylum shopping’ – namely multiple applications for asylum within the EU, through comparing the fingerprints of asylum seekers stored in a database. It came into being, again as a part of compensatory measures, after a very long and heated debate. The discussions relating to the database started following the introduction of the Dublin Convention and continued throughout the 1990s. The main controversial point was the content of the database; namely whether it should be restricted to the information on asylum seekers or extended in a way to include data on irregular migrants (PE4; BE4). Another contention was the question of which authority, - whether the EC or member states -, should be the competent one in managing the database (Schlentz 2010: 17).

Finally, an agreement was reached in 2000 with the Council Regulation (2725/2000) concerning the establishment of ‘Eurodac’ for the comparison of fingerprints in order to ensure the effective application of the Dublin Convention. The Regulation established that three types of data shall be included into this system (Council of the European Union 2000): a) on asylum seekers, b) on aliens apprehended in connection with the irregular crossing of an external border and c) on aliens found irregularly present in a member state. Besides, it called for taking fingerprints of asylum seekers and irregular immigrants, who
are 14 years old and over. These data shall be collected by member states and transmitted to the Central Unit, which was envisaged to be established within the EC and shall be responsible for operating the central database on behalf of member states (Article 3). Most importantly, under Article 13, it was emphasized that the EC shall ‘ensure that only persons authorized to work in the Central Unit have access to data recorded in the central database’ (Article 13). Concerning member states’ access to the database, it was stated that member state ‘shall have access to data which it has transmitted and which are recorded in the central database in accordance with the provisions of this Regulation. No Member State may conduct searches in the data transmitted by another Member State, nor may it receive such data apart from data resulting from the comparison’ (Article 15).

This framework signifies the securitization of migration in the sense that it aimed at deterring and controlling asylum seekers across the EU. Even though, it was not directly linked to terrorism or national security considerations, its main objective, which is the effective application of Dublin Convention, reveals that security concerns prevail over the previous years’ humanitarian approach. More precisely, as argued by Baylis (2008: 174), Eurodac aims at ensuring European security and ‘this security is seen as a protection against the overall effect of asylum seekers moving across and within European borders to evade adverse decisions or go “asylum shopping” not security from terrorist attack’. Furthermore, asylum/immigration nexus is apparent as asylum seekers and irregular immigrants came to be dealt under the same framework; hence there is a clear ‘convergence in policy of the categories of persons irregularly crossing borders and asylum applicants’ (Guild 2006: 66).
3.1.3. Amsterdam Treaty

The constellation grounded by the Maastricht Treaty witnessed considerable changes following the Amsterdam Treaty of 1999. First, measures concerning visas, immigration, asylum and rights of third-country nationals, external border controls, administrative cooperation in these issues and judicial cooperation in civil matters were transferred to the first pillar – namely Community Pillar – under the Title VI, called Visas, Asylum, Immigration and Other Policies Related to Free Movement of Persons (Article 2 (15)). Besides, the Schengen acquis was incorporated into the EU’s legal framework. Most importantly, Article 62 (2) of the Treaty called the Council to remove ‘controls on persons be they citizens of the Union or nationals of third countries, crossing internal borders.’ The deadline for achieving this goal was established as mid-2004. Furthermore, it was decided to apply qualified majority voting to the future decisions in the field. Yet, since member states were not willing or ready to share their decision-making powers with the EP, it was reserved that unanimous voting would ‘last at least a transitional period of five years after the entry into force of the Treaty (1 May 1999)’32 (Lavenex 2001: 28). The EP’s involvement, therefore, remained ‘limited to a consultative role’ (Tholen 2004: 326). However, member states were required to share their power of initiatives with the EC, which also became the dominant actor in formulating proposals (Den Boer and Wallace 2000:514). Another change is that even though migration-related issues were opened to the jurisdiction of the ECJ, this role was also restricted in its scope. For example, Article 68 (2) laid down that ECJ has no competence to review measures, such as those aim at reinstating ‘border controls by derogating from the provisions of Article 14 EC and thus

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32 The compromise concerning the communitarization of the JHA matters came out of severe discussions. Especially, Germany, the Netherlands, Belgium, and France supported such a move; on the other hand, particularly the UK expressed its resentments against this change. In the end, significant opt-out clauses were introduced for the UK, Ireland and Denmark that allowed them to stay out of cooperation in certain fields (Monar 1999).
Article 62 (1) EC, which member states apply for maintenance of law and order as well as for protecting internal security. Similarly, Article 35 (5) states that the ECJ ‘cannot review the validity or proportionality of operations carried out by the police or other law enforcement services of a member state with regard to the maintenance of law and order and safeguarding of internal security’. These provisions prove that internal security considerations in relation to movement of third-country nationals remained intact. Last, but not the least, while the ECJ was empowered to review the cases relating to refusal of entry or expulsion of nationals of member states, it was not granted the same right as regards to the cases of third-country nationals. This signifies that the EU favoured the free movement of EU citizens; but intended to discourage the same freedom for non-EU citizens. As noted by Kostakopoulou (2000: 506-7) ‘it was this inconsistency in the EU migration policy (i.e. the securitization ethos characterizing extra-EU migration policy v. the liberalization ethos of intra-EU movement) that provided ammunition for the critique of the intergovernmental methodology.’ Moreover, this institutional structure also reveals that ‘decision-making in [JHA matters] remains highly secretive’ owing to the limited role given to the ECJ and EP, which were kept away from internal security issues linked to the Schengen (Hix 2005: 349).

However, the fundamental catalyst for the securitization of migration put forward by the Amsterdam Treaty is the introduction of an area of freedom, security and justice (AFSJ) (Schlentz 2010: 10). This change codified the ‘nexus of asylum-immigration-security’ in an institutional setting. In particular, Article 61 (a) of the Treaty defined the aim of the EU with these words: ‘to maintain and develop the Union as an area of freedom, security and justice, in which the free movement of persons is assured in conjunction with appropriate measures with respect to external border controls, asylum, immigration… and measures to prevent and combat crime.’ To this end, the Council was obliged to ‘introduce
flanking measures (Article 62-3) to compensate for free movement within EU’ within five years (Den Boer and Wallace 2000: 514). As in case of previous years’ compensatory measures adopted in the course of Schengen system, these were also concerned with the strengthening of external borders. In relation to this enduring security aspect of the Schengen and role of the Council as the determinant decision-making body pertaining to the Amsterdam Treaty, Mitsilegas *et al.* (2003: 88) contend that:

> It is thus evident that the creation of ‘security continuum’ by the Maastricht Treaty, linking immigration with crime, far from being abolished by the communitarization of migration policies, is rather substantially enforced at Amsterdam […] Along with the revamped third pillar, it illustrates the broad potential of the Amsterdam Treaty towards the adoption of EU and EC ‘security’ measures aimed at combating organized crime and [irregular] immigration. Hence, despite some premises introduced by the Amsterdam Treaty, including opening the field to the EP and ECJ, these remained moderate in order to mitigate the securitization process, furthered by the intergovernmental framework.

Apart from these general changes affecting immigration and free movement of people, the Amsterdam Treaty introduced also specific policy frameworks regarding visa and asylum practices. For the former, as the Treaty incorporated the Schengen *acquis* into EU law, harmonization of visa policies was furthered through adopting certain Regulations. The most decisive one, which pawed the way for the full harmonization of the member states’ visa requirements, is the Regulation 539/2001 of 15 March 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*. Accordingly, the so-called ‘positive’ and ‘negative’ lists, or better known as ‘white’ and ‘black’ lists, were laid down. The ‘white’ list includes third countries whose nationals must be in possession of visas when crossing the external borders of the EU and the ‘black’ list is composed of those countries whose nationals are exempt from this requirement. According to the
explanatory memorandum of the EC, application of visa requirements to certain countries, but not to others, is based on the following criteria:

- Illegal immigration: the visas rules constitute an essential instrument for controlling migratory flows. Here, reference can be made to a number of relevant sources of statistical information and indicators to assess the risk of illegal migratory flows (such as information and/or statistics on illegal residence, cases of refusal of admission to the territory, expulsion measures, and clandestine immigration and labour networks), to assess the reliability of travel documents issued by the relevant third country and to consider the impact of readmission agreements with those countries.

- Public policy: conclusions reached in the police cooperation context among others may highlight specific salient features of certain types of crime. Depending on the seriousness, regularity and territorial extent of the relevant forms of crime, imposing the visa requirement could be a possible worth considering. Threats to public order may in some cases be so serious as even to jeopardize domestic security in one or more Member States. If the visa requirement was imposed in a show of solidarity by the other Member States, this could again be an appropriate response.

- International relations: the option for or against imposing the visa requirement in respect of a given third country can be a means of underlining the type of relations which the Union is intending to establish or maintain with it…Given the extreme diversity of situations in third countries and their relations with the European Union and the Member States, the criteria set out here cannot be applied automatically, by means of coefficients fixed in advance. They must be seen as decision-making instruments to be used flexibly and pragmatically, being weighted variably on a case-by-case basis (Commission of the European Communities 2000)

As it is seen, there emerged a direct link between borders, migration and security and the fight against irregular immigration came to be conceived as a key concern.

According to Cholewinski (2002: 87), such a visa policy based on these criteria, tend to
discriminate and even criminalize nationals of certain countries. This is mainly because, these criteria are inclined to

assessing countries on the basis of whether their nationals are likely to enter [irregularly] or commit crimes and thus purport to focus on the activities of individuals rather than on relations between states. However, this assessment of risk is not undertaken in respect of the activities of a particular individual but on the basis of the broad criterion of nationality. Such an approach is suspect in the context of justifying discrimination (ibid.).

Furthermore, this Regulation codified the exclusionary asylum practices as well. This is mainly because there was no reference to asylum seekers and refugees as well as to the obligations of member states under international law. In other words, asylum seekers were not exempted from visa requirements. Consequently, as Da Lomba (2004: 108-109) puts it:

Asylum seekers who are nationals of third countries listed in Annex I [black list] to the Regulation must be possession of a visa when crossing an EU external border. The main “procedures” of asylum seekers worldwide are amongst those countries listed in Annex I to the Regulation, thus erecting additional hurdles to many asylum seekers’ access to the EU.

In this context, the Regulation has further restricted the right to seek asylum in Europe in a very clear and explicit way. Another significant point that deserves particular attention is the integration of the so-called Spanish Protocol into the Amsterdam Treaty under Article 63. With that protocol, it became possible to deny asylum to nationals of member states across the EU. This is closely related with the Spanish concerns about ETA members, who may ask for asylum in another EU member state. Indeed, during the negotiation of the Amsterdam Treaty, some Basques of Spanish nationality had applied for asylum in Belgium (Guild 2005a: 34). This gave birth to a heated debate over whether these people should have been given an asylum in Belgium. As revealed during the interviews, on the one hand, opponents of this protocol pointed to the necessity for
accepting their claims, as they could be persecuted in Spain on the grounds of their political belief. On the other hand, there were concerns whether this would be in contradiction with the idea that the EU was composed of ‘safe countries of origin’ (PE₂; AS₈). In this political climate, Spain pushed quite hard to make this protocol accepted in order to prevent future asylum claims by Basques (ibid.). This represents how national concerns affect European level developments and proves that in certain cases, there is a mutual relationship and interaction between the EU level developments and national concerns and Europeanization of migration practices are not always one way process whereby top-down European level decisions impact upon member states’ migration politics.

3.1.4. Tampere Council

Another major breakthrough for migration practices in the pre-September 11 period is the Tampere Council held in October 1999. The stated aim resulting from this summit is to ‘develop the Union as an area of freedom, security and justice by making full use of the possibilities offered by the Treaty of Amsterdam’ for which deadline was May, 2004 (European Council 1999) and to implement fully the Schengen acquis. To this end, the Tampere Council conclusions specified ‘concrete policy issues’ that the EU shall undertake in the area of JHA with a ‘provisional timetable’ (Benam 2011: 52).

First, it brought forward new institutional set-ups, particularly, concerning the police and judicial cooperation. Of those, the most crucial one is the agreement on the establishment of Eurojust (the judicial counterpart to Europol) with powers to combat cross-border organized crime. Secondly, the emphasis on ‘fight’ against irregular immigration was reiterated in tandem with the aim of establishing a common asylum policy. More precisely, it called for the EU and member states to ‘to develop common
policies on asylum and immigration, while taking into account the need for a consistent control of external borders to stop illegal immigration and to combat those who organize it and commit related international crimes’ (European Council 1999). In relation to this aim, most importantly, externalization of migration control policies became the key reference point in order to ‘manage’ irregular immigration with a better coordination between internal and external policy tools. As indicated before, externalization of migration control practices imply a restrictive and securitarian approach, which aim at keeping away ‘unwanted’ migrants or preventing them to enter the territory at the outset. Keeping this rationale in mind, the Tampere Council, first, called for utilizing ‘all competences and instruments at the disposal of the Union, and in particular, in external relations must be used in an integrated and consistent way to build the area of freedom, security and justice’ (ibid.). It was further stated that all migration-related concerns should be ‘integrated in the definition and implementation of other European policies and activities’ – that provides precisely incorporation migration goals into the EU’s external policy’ (ibid.). The major policy tool, here, advocated by the Council was the insertion of readmission clauses into other agreements regarding development aid, trade and association, signed between the Community and third countries (ibid.). Within this context, readmission agreements gradually escalated on the top of the agenda as an important means to ‘get rid of’ irregular

33 In fact, external relations and foreign policy have already become part of the migration issues before the Tampere. From the early 1990s, the EU started to put much more focus on neighbouring or nearby countries in order to deal with migration alongside cross-border security threats, such as organized crime, human and drug trafficking. One of most significant initiative is the European Mediterranean Partnership (hereafter:EMP) or the so-called Barcelona Process, which was started in 1995 and promoted mainly by the Southern member states, especially by Spain, in order to divert the EU’s political attention and financial source to the South Europe. During the Spanish Presidency of 1995, the EMP emerged as a ‘scheme of multilateral relations or a regional cooperation’ together with 12 12 Southern Mediterranean partner counties (originally comprising Algeria, Cyprus, Egypt, Israel, Jordan, Lebanon, Malta, Morocco, the Palestine Authority, Syria, Tunisia, and Turkey) (Silvestri 2005: 386). The Barcelona Declaration born out of the Euro-Mediterranean Conference, outlined the objective of this partnership under three headings: 1) to enhance prosperity and economic exchanges with a view to gradually establishing a free trade zone in the Mediterranean region; 2) to define a common area of peace and political stability, also through political contacts and cooperation in security matters; 3) to encourage understanding between cultures and exchanges between civil societies – that is the so-called intercultural dialogue – from which a more cohesive and democratic society’. And migration issue was placed under the third objective. Volpi (2004: 156) argues that security and migration have been the major concerns ‘at the hearth of the EMP from the very start of the process.’
immigrants and asylum seekers in a much easier way. As Osowska (2010) frames, they became the logical counterpart to deportation. Since the EC’s power to negotiate readmission agreements were widened in 2000 and 2001, various readmission agreements were increasingly signed, such as with the Russian Federation, Hong Kong, Makao, Sri Lanka, Morocco and Pakistan (Odysseus Academic Network 2009: 283). Besides, new financial instruments in the form of trade or development ‘aid’ were put into place in order to ensure implementation of readmission procedures. For instance, under the Lome Convention, which was refined in February 2000, £ 8.5 billion was allocated to aid and trade agreements between the EU, and African, the Caribbean and Pacific Countries (ACP) in return of ‘specific rules guaranteeing the repatriation and expulsion of people deemed to be “illegal” within the EU’ to be inserted into these agreements (Fekete 2009a: 25). As most of the critics argue, these efforts of the EU are related to the aim of creating ‘buffer zones’ around its borders (Hayes and Bunyan 2003: 71). In a similar vein, Fekete (2009a: 24) contends that the Tampere Council formalized practices that ‘turned Third World Governments into immigration police for Western Europe.’ Most prominently, for Schletz (2010: 14), this ‘convergence of foreign policies with asylum and immigration affairs constitutes another significant element in the securitization of asylum and immigration in the EU.’ This is mainly because, following this convergence, ‘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’ (ibid. 15).

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

However, the Tampere Council conclusions promoted practices conflicting with the ongoing securitization process as well. For example, a more liberal stance towards labour immigration was promoted contrary to the ‘zero’ immigration policy having dominated the agenda since the 1970s economic crisis. Given the improvement in economic situation across Europe, especially the EC urged for a more open labour immigration policy. This necessity was linked to economic considerations in the face of aging population in Europe and increasing need for labour force in certain sectors, including technology, agriculture, construction, and services (Schain 2009: 100). In this sense, economic concerns prevailed. Furthermore, the Tampere Conclusions requested member states to ensure the ‘equality of treatment’ within their national immigration policies. This pro-immigrant stance was exemplified in the Council Conclusions by stating that:

The European Union has already put in place for its citizens the major ingredients of a shared area of prosperity and peace; a single market, economic and monetary union, and the capacity to take on global political and economic challenges. The challenge of Amsterdam Treaty is now to ensure that freedom, which includes the right to move freely
throughout the Union, can be enjoyed in conditions of security and justice accessible to all (European Council 1999).

It was further pointed out that this freedom does not solely and exclusively belong to the Union citizens; the Union should also ensure the interests of third-country nationals. Another relatively counter-securitization move is seen in the field of asylum. In Tampere, the European Council demonstrated a more humanitarian approach with regard to refugees and asylum seekers. ‘The importance the Union and Member States attach to absolute respect of the right to seek asylum’ was underlined. Accordingly, Tampere Council gave a start to the programme 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.). In this sense, it is right to assert that the Tampere signifies some break with the securitarian approach concerning immigration and asylum issues; as Lavenex (2001: 106) puts it, ‘the heads of States appeared to realize the menace of rising “Fortress Europe” agenda’; thereby stipulating a more balanced approach in this regard.

3.1.5. Interim Conclusion

This section demonstrates that the securitization of migration has been already in the making prior to September 11. Though there was not a direct reference to terrorism except TREVI, migration/security nexus came into existence starting from the early laboratories, whereby migration began to be dealt with alongside the issues of policing European borders and ensuring internal security. As put forward by Pastore (2001: 10-11),

Since the mid-1980s […] a fundamentally exclusive and defensive approach to European internal security issues has […] become predominant. Such security Weltanschauung was embodied in a multiplicity of partly overlapping intergovernmental frameworks (Trevi;
Schengen; Maastricht’s third pillar), which formed a very peculiar, homogenous and (in spite of its institutional clumsiness) cohesive “internal security regime”.

In the course of this ‘internal security’ regime, ‘fight against irregular immigration’ and preventing the ‘abuse of asylum system’ by ‘economic’ immigrants turned into decisive elements shaping practices especially in accordance with the abolition of internal border controls. Besides, exclusion of third country nationals/migrants was crystalized following the introduction of the European citizenship. In such a context, various practices were put into place, which were operationalized mostly under the discretion of member states and through excluding the EP, the ECJ and the EC. Even though the Amsterdam Treaty induced certain changes as regard to the roles of these institutions, the predominance of member states and security-mindset were preserved in the following years.

In conjunction to this, the externalization of migration control, a process, which has developed parallel to the securitization process with the aim of controlling and if necessary containing the movement of would-be migrants, became a powerful tendency. Restrictive visa policies, strengthening of asylum procedures through ‘safe country’ and ‘first country of asylum’ rules, carrier sanctions and technological surveillance mechanisms in the form of databases demonstrate how the EU pushed for the securitization around its external borders. These developments cannot be isolated from certain form of external contextual factors. Needless to say, the creation of the Single Market with resultant abolition of internal border controls shifted the focus toward external border controls. However, other political and economic changes became a catalyst for the changing character of migration practices across Europe (PE₃; AG₃). Given their continuing power in this initial period of Europeanization, member states found the opportunity to carry their restrictive agenda to the EU level (AEᵢ). As mentioned before, from the 1970s onwards, especially the so-called
traditional migration countries, which also structured the intergovernmental framework, started to follow ‘zero immigration’ approach. This restrictive trend was coupled with the geopolitical changes following the end of Cold War, which resulted in increasing asylum seeking applications (PG₁). Hence, the securitization process at the EU level was not only induced by the ongoing integration process, but also through the transnational economic and political changes.

Against this backdrop, the next section will explore whether the September 11 and following attacks, represent a radical break within this security architecture or they have just facilitated the implementation of certain securitarian practices. Most importantly, it will attempt to unpack whether there is a transversal/convergence between migration and counter terrorism agendas.

3.2. The Post-September 11 Period

In this section, the main aim is to account for the impact of September 11 and subsequent attacks on migration practices developed at the EU level. However, as mentioned many times, even though the guiding question is whether counter-terrorism agenda has restructured migration practices, the analysis will also aim to explore the securitization of migration in a broader context. More precisely, it will also take into account factors other than terrorism in the course of the securitization. To this end, main developments concerning the chosen practices will be delineated. To recap, this analysis will be conducted under two main headings, - external and internal securitization. Before doing this, a brief look at the general political conjecture regarding the perceptions of ‘enemy’ and ‘terrorism’ as well as the EU’s counter-responses against the attacks will be taken.
3.3. Changing Perceptions of ‘Enemy’ and the EU Counter-Terrorism Strategy

It is widely asserted that the post-September 11 rhetoric has reframed attacks as a ‘new’ form of terrorism (Eckert 2005). Contrary to the ‘traditional’ acts of terrorism, which were mostly limited in geographical scope and whereby perpetrators could be personified, the post-September 11 terrorism, or the so-called international terrorism, was depicted as delocalized and de-individualized (Lepsius 2004: 66). As commented by one of the MEP, ‘we do not know where, and precisely who, the enemy is’ (quoted in Tsoukala (2004: 6). In this context, it is further argued that there emerged a ‘specific perception of risk’, which renders the ‘new’ international terrorism so ‘omnipresent’, ‘invisible’, ‘elusive’ that requires preventive measures (Eckert 2005: 2). In turn, as Eckert eloquently argues, ‘…this innocent word ‘prevention’, so much less brutal than repression, so much less vindictive than punishment entails possibilities for the expansion of state powers that potentially undermine not only civil liberties but also procedures of political deliberation’ (ibid. 5).

Most prominently, Moeckli (2010: 474) asserts that the portrayal of ‘contemporary terrorism as inherently linked to a fundamental civilizational challenge from abroad […] has reinforced the trend towards the use of immigration measures as an anti-terrorism tool.’ He details this argument with the following words:

This [portrayal] has led states to rely increasingly on anti-terrorism strategies that are targeted at those who try to enter the country or have entered recently. Such policies are not only designated to incapacitate potential terrorists, but also to deter them from entering, or staying, in the first place (ibid.).

Against this backdrop, it is more understandable that even though the September 11 attacks occurred outside European soil, it was perceived as an attack against the West as a whole. Consequently, international terrorism escalated to the top of the European political agenda together with migration issues in the immediate aftermath of the September 11
attacks (see Casale 2008: 51). This political atmosphere is to be better evidenced, if one looks at the ‘concrete’ steps taken for counterterrorism purposes. Foremost, the so-called ‘common’ definition of terrorism put forward by the EU following the September 11 attacks reveals this widening of the conceptualization of ‘enemy’ or ‘terrorist’ as well as of ‘new terrorism’. At its extraordinary meeting of 21 September 2001 convened as a response to attacks, the European Council reached an agreement on the necessity of a common definition of terrorism to be applied across the member states. It directed the JHA Council to ‘flesh out that agreement and to determine the relevant arrangements, as a matter of urgency and at the latest at its meeting on 6 and 7 December 2001’ (European Council 2001a). Immediately, A Framework Decision on Combating Terrorism was negotiated and adopted by the Council on 13 June 2002 and the deadline for transposition of this decision into national law was set as 31 December 2002. Accordingly, Article 1 of the Framework Decision defines terrorism as those criminal offences against persons and property, which
given their nature or context, may seriously damage a country or an international organization where committed with the aim of: seriously intimidating a population; or unduly compelling a Government or international organization to perform or abstain from performing any act; or seriously destabilizing or destroying the fundamental political, constitutional, economic or social structures of a country or an international organization (Council of the European Union 2002a).

This common definition attracted considerable amount of criticisms as being so broad and imprecise. It was asserted that given the fundamental legal, political and social impact of how to define terrorism and terrorist, this definition might put the rule of law and fundamental rights at risk. More precisely, it was stated that:

A sufficiently exact definition of the offence of terrorism is a prerequisite not only for a specific indictment, but also for the application of specific procedure rules, particularly in
the context of the inquiry or the investigation, and even more so for special forms of detention; otherwise the measures adopted in fighting terrorism will lack clear legal basis, potentially bringing into question their lawfulness (EU Network of Independent Experts in Fundamental Rights 2003: 7).

In this context, for Mathiesen (2002: 92), with that definition, it became possible to include ‘any form of support, active, or passive, to entities or persons involved in terrorist attacks’. A criminologist also put forward in one of the interview that ‘If you have a very vague definition of terrorism, you can use it without less limitation’ (AE₁). In a similar vein, Lyon (2003: 50) remarks that, ‘with definition as broad as this, it is clear that all kinds of activity may be branded as “terrorists,” including what were previously perfectly lawful demonstrations or protests.’ To be more precise, he eloquently, argues that:

The boundaries are blurred between different kinds of activity when “terrorism” is expanded to include aims such as “altering political, economic, or social structures.” Thus not only those with the right (or wrong) “racial” or regional background come under the spotlight. Anyone not entirely content with the status quo, whether on the right or the left, consumerist or green, patriarch or feminist, has such aims, which under current legislation are effectively criminalized (ibid. 54).

Apart from this common definition, the EU initiated a comprehensive strategy, which interlinked different fields between each other and prompted a multidimensional framework in order to counter terrorism. After having revealed that one of the perpetrators of the attack, namely Mohammed Ata, had lived in Hamburg with a student visa for some time, the emphasis was put on the so-called weakness of the EU’s external border controls and on the necessity to enhance the surveillance over potential criminals or terrorists who might abuse migration channels in order to enter the EU (Baldaccini 2008: 31). The Madrid and London attacks respectively in 2004 and 2005, reinforced these concerns, but added a new dimension to the counter-terrorism strategy. As these attacks were conducted
in European soil and by perpetrators with migrant backgrounds, the ‘enemy within’ and/or ‘homegrown terrorism’ narratives, which have interconnected the issue of ‘radicalization’, recruitment of terrorism, failure of integration and necessity of higher level of internal surveillance with each other, emerged as significant themes on the European political agenda (PE₃; PE₄;AE₃; SEG₁). In this setting, whereas the border controls and surveillance practices were emphasized for combating terrorism in the aftermath of the September 11; the Madrid and London attacks contributed to a major shift of this emphasis to the internal control strategies. This is well evidenced by the EC stating that:

[in] view of the latest terrorist acts in the EU, it can be noted that the perpetrators have been mainly EU citizens or foreigners residing and living in the Member States with official permits. Usually there has been no information about these people or about their terrorist connections in the registers, for example in the SIS or national databases (Commission of the EU 2008a: 10).

This framework, indeed, came to be much more structured with the Counter-Terrorism Strategy, which was first adopted in 2005 and subject to continuous revision in the following years. It outlined the main strategies to be pursued by the member states under four strands: Protect, Prevent, Pursue, and Respond (Council of the European Union 2005a). More specifically, these strands include the following points (ibid.):

- Prevent:

The first objective is to prevent people turning to terrorism by tackling the factors or root causes which can lead to radicalization and recruitment in Europe, and internationally. More specifically, this pillar aims to combat radicalization and recruitment of terrorists by identifying the methods, propaganda and the instruments used by terrorists. Although these challenges lie with the Member States, the EU helps to coordinate the national policies, determine good practice and share information.
The second one is to protect citizens and infrastructure and to reduce Europe’s vulnerability to attacks, including through improved border security of borders, transport and critical infrastructure. The "Protection" pillar aims to reduce the vulnerability of targets to attack and to limit the resulting impact of attack. It proposes to establish collective action for border security, transport and other cross-border infrastructures.

The third one is to pursue and investigate terrorists across internal borders and globally. The EU wishes first and foremost to cut off access to attack materials (arms, explosives, etc.), disrupt terrorist networks and recruitment agents and tackle the misuse of non-profit associations.

The last objective is to impede terrorists' planning, disrupt their networks and the activities of recruiters to terrorism, cut off terrorists’ funding and access to attack materials, and bring them to justice, while continuing to respect human rights and international law.

Casale (2008: 53) posits that ‘Across these four categories, the strategy seeks to link strands from different policy areas and emphasize close interaction of measures at the Member State, the European and International level.’ Following the securitization literature, this framework particularly under the strands of ‘Prevent’ and ‘Protect’ explicitly called for the utilization of migration-related practices as a counter-terrorism tool (see Leonard 2010a).

Against this background, the next sections will provide an in-depth analysis of the previously chosen migration practices in the light of September 11 and following attacks;
and assess the securitization of migration in line with the division of external and internal securitization.

3.4. **External Securitization of Migration**

As detailed previously, the EU has progressively developed practices, which aim at preventing and controlling would-be migrants wishing to enter the EU from the very beginning, even at source. As Benam (2011: 125) argues that this is a process working through ‘containment, confinement, and dissuasion of unwanted and “risky” elements by incorporating bureaucrats, private companies and [third countries] to its border management system’ as well as through technological and militarization practices. As discussed above, especially under the strand of ‘Prevent’, the emphasis was put on border controls and surveillance. In this context, it appears that practices administering these fields have been restructured and reinterpreted in the light of terrorist attacks. Indeed, this approach was explicitly mentioned in the EU Counter-Terrorism Strategy:

*We need to enhance protection of our external borders to make it harder for known or suspected terrorists to enter or operate within the EU. Improvements in technology for both the capture and exchange of passenger data, and the inclusion of biometric information in identity and travel documents will increase the effectiveness of our border controls and provide a greater assurance to our citizens. The European Border Agency (Frontex) will have a role in providing risk assessment as part of the effort to strengthen controls and surveillance at the EU’s external border. The establishment of the Visa Information System and second generation Schengen Information System will ensure that our authorities can share and access information and if necessary deny access to the Schengen area (Council of the European Union 2005a: 10).*
In order to capture this process and explore the securitization of migration in relation to terrorism in the post-September 11 era, this section will shed the light on those practices, which are adopted far from and around the EU external borders.

### 3.4.1. Practices Governing the Entry/Admission of Migrants

As mentioned previously, visa policies/schemes constitute one of the most important tools for controlling and, if necessary, preventing the entry of would-migrants. They perform the role of ‘policing at a distance’ or of ‘remote control’ (Bigo and Guild 2005; Zollberg 2003). The pre-September 11 analysis illuminates that the EU took fundamental steps towards harmonization of short-term visa policies (i.e. issued for three months and given to tourist or businessmen) among member states. To reiterate, with the aim of ensuring internal security of the EU and countering the so-called ‘security deficit’ following the abolition of internal borders, harmonization of short-term visa policies in a restrictive and discriminatory way was put into place. In particular, they were designated mostly as a tool to ‘fight against irregular immigration’ and for the sake of public policy. In this context, even though ensuring internal security was emphasized, there was not a direct reference to terrorism.

In the post-September 11 era, there emerged explicit official moves towards constructing a linkage between visa policies and combating terrorism. Just after the attacks, the European Council, during its extraordinary meeting on 20 September, pointed to the linkage between border control and terrorism. Its output was an instruction, titled as ‘Measures at the Borders’ inviting the member states and competent authorities to strengthen controls and surveillance measures at the external borders and exercising utmost vigilance in the issuing of visas, residence permits and identity documents. Also at the meeting, a Declaration on Combating Terrorism, known also as the EU Action Plan on
Combating Terrorism, was introduced. This plan, together with ‘Measures at the Borders’ called for utilization of migration practices against the possible terrorist threat. Accordingly, ‘strict visa policy’ was presented as one of the significant tools in preventing terrorists from enter the EU. Later, the Hague Programme of 2004 as a successor of the Tampere Programme, reaffirmed this stance by stating that:

The management of migration flows […] should be strengthened by establishing a continuum of security measures that affectively links visa application procedures and entry and exit procedures at external border crossings. Such measures are also of importance for the prevention and control of crime, in particular terrorism (European Council 2004a; emphasis added).

In this context, following Bigo, a security continuum between migration and criminal activities was established. Besides, this continuum apparently called for the transversal/interwinement of practices belonging to these different spheres. In a similar vein, in the aftermath of the Madrid and London bombings, the EU Action Plan on Combating Terrorism of 18 June 2004 and the EU Counter-Terrorism Strategy of December 2005, defined the visa policy as a key to ‘pursue and investigate terrorist across EU internal borders and globally’ and ‘to impede planning, travel and communications’ (Casale 2008: 53). Consequently, the EU took concrete steps in the light of its terrorism related security concerns, though ‘fight against irregular immigration’ was still reserved a prominent place. To be more precise, for example, the Council Regulation 539/2001, 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, was amended by the Council Regulation 1932/2006. With this latest regulation, it was called for the transfer of some third countries from one list to another (see Council of the European Union 2006). As of 2008, 130 countries were belonging to the black list (i.e. almost all the countries in the Middle East, South Asia, Central Asia, and Africa) (Leonard
As one of the interviewee stated that, nationals of Muslim countries all of which are belonging to ‘black’ list, came under the spotlight in the post-September 11 period (PG₁). In a similar vein, the latest ‘Community Code on Visas’ (CCV) introduced by the Regulation 810/2009 and defining the procedures and conditions for issuing short term visas also replicated this securitarian approach. More precisely, according to Article 21 of the CCV, ‘particular considerations shall be given to assessing whether the applicant presents a risk of illegal immigration or a risk to the security of Member States’ (European Parliament and Council of the European Union 2009). The same Article also obliges consulates to confirm that ‘the applicant is not considered to be a threat to public policy, internal security or public health […] or to the international relations of any of the Member States.’ In Leonard’s words (2010a: 38), ‘from the point of view of the fight against terrorism, the officials processing a visa application are required to ensure that the applicant does not represent a security risk, such as a terrorist risk.’ As will be detailed in the following sections, utilization of visa schemes as a means to combating terrorism has become much more consolidated with the support of various databases.

As regards to long-term stay for employment and family reunification purposes, the EU introduced several measures in order to prompt certain level of harmonization as well. Particularly, the liberal stance towards labour immigration advocated following the Tampere Council by the EC was also preserved in the course of Hague Programme. The Hague Programme urged the Commission to prepare a policy plan regarding regular immigration and admission procedures before the end of 2005. The outcome was the Commission Communication, entitled ‘A Common Immigration Policy for Europe: Principles, Actions, and Tools’ (Commission of the European Union 2008b). In this Communication, the EC stressed that ‘in a context of an ageing Europe, the potential contribution of immigration to EU economic performance is significant’ (ibid. 2). Despite
this liberal approach vis-à-vis labour immigration linked to economic concerns, it was also added that: ‘Managing immigration effectively means addressing also different issues linked to the security of our societies and of immigrants’ themselves. This requires fighting illegal immigration and criminal activities related to it, striking the right balance between individual integrity and collective security concerns’ (ibid. 3). Hence, unlike the economic approach structuring labour immigration, a more defensive and security-oriented approach towards irregular immigration was underlined.

This policy line was repeated in the context of the European Pact on Immigration and Asylum of 2008. The emphasis was put on attracting highly skilled migrant workers and facilitating the reception and free movement of students and researchers (Council of the European Union 2008: 5). This approach was materialized with the so-called Blue Card Directive of Council in 2009. This directive laid down the ground for a special regulation for those highly qualified third-country nationals in order to facilitate their entry into the EU – that is a ‘fast track procedure for issuing a special combined residence and work permit – the ‘Blue Card’ – to highly qualified migrants who have been offered a job in the EU’ (Monar 2010: 156). Even though this Directive offered substantial amount of advantages to those highly-skilled workers, it remained limited in its scope in the face of persisting national competences over the regulation of labour immigration. Furthermore, this approach should not be seen as so ‘innocent’, as it reveals the long-lasting division between ‘unwanted’ migrants, including poor, irregular and unskilled immigrants and asylum seekers and ‘wanted’ migrants, namely rich and skilled ones. It demonstrates that the EU opens the door to capital, rich and skilled work force, but denies the same opportunity to poor and unskilled migrants.

On the other hand, for the family reunification, the EU implemented certain legally binding legislative frameworks as well as introduced non-binding guidelines. Taken
together, these measures reflect the securitization approach. For example, the so-called Family Reunification Directive (2003/86/EC) integrated the pre-existing securitarian approach characterizing member states practices regarding the family reunification; but also made an explicit reference to terrorism. More specifically, Article 6 (1) of the Directive allows member states to refuse an application for family reunification on grounds of public policy, public security or public health (Council of the European Union 2003d). Recital 14 of the Directive clarifies that the notion of public policy may cover a conviction for committing a serious crime (ibid.). The same recital further added that ‘the notion of public policy and public security covers also cases in which a third country national belongs to an association which supports terrorism, supports such an association or has extremist aspirations’ (ibid.). Oosterom-Staples (2007: 482) asserts that these measures ‘reflect the changes in climate following the attacks in the US on 9/11.’ One of the interviewee also put forward the same argument and stated that these clauses justifying the rejection of an application for family reunification on security grounds are closely related to post-September 11 developments, which invoked securitarian practices as well as provided ground to implement them (PE₃). Another conservative and exclusionary tendency is reflected in the term ‘integration measures’, which was inserted into Article 7 (2) of the Directive at the initiative of the Netherlands with support from Germany and Austria (Groenendijk 2011: 6). More specifically, by stating ‘Member States may require third country nationals to comply with integration measures, in accordance with national law’, the EU legitimized the implementation of pre-departure measures by member states. As will be detailed in German case, these pre-departure measures include the requirements imposed on spouses abroad to pass language or knowledge of society tests for family reunification before their departure. Even though Article 7 (2) was formulated as an optional clause, not all but some of the member states including Germany, the Netherlands,
France and Denmark started promptly to ‘use it as a condition before admission to the territory’ (Laura 2010: 17). This stance was reemphasized in the course of the European Pact on Immigration and Asylum. More precisely, the Pact called for member states ‘to regulate family migration more effectively, in compliance with the European Convention for the Protection of Human Rights and Fundamental Freedoms, to take into consideration in its national legislation, except for certain specific categories, its own reception capacities and families’ capacity to integrate, as evaluated by their resources and accommodation in the country of destination and, for example, their knowledge of that country’s language’ (Council of the European Union 2008: 6). Despite the reference to human rights, which are to constraint state actions, the wording of the provision reflects a clear demarcation from the previous years’ approach towards family reunification. Most notably, language was emphasized as an indicator of the ability of migrant to integrate and this was defined as a condition for family reunification. These provisions are not directly linked to terrorism; however, they have still security connotations. Following Huysmans, they are to perform the role of securing ‘host community’ against certain migrants, who are designated as outsiders and who are not in conformity with the reified homogeneity of this community.

Lastly, regarding the admission of asylum seekers, barriers of entry, which were already in the making in the course of the European integration process, were further intensified especially in the light of post-September 11 developments. In the immediate aftermath of the September 11 attacks, the possible abuse of the asylum system by terrorist entered the political agenda. For example, just after the attacks, the Council adopted the Conclusion 29, which urged the Commission ‘to examine urgently the relationship

34 One of the interviewee stated that ‘Those willing to reintegrate with their families in European countries and targeted by pre-departure requirements are mostly coming from very poor regions of their home countries. Then, how can one expect that these people are able to pay for and attend language courses? If, and mostly this is the case, they live in rural areas, they have to immigrate, first, into metropolitans or big cities, where these courses are available. Then, they have to pay for accommodation and extra costs in order to be able to attend these courses’ (PE₃).
between safeguarding internal security and complying with international protection obligations and instrument’ (European Council 2001a). Following this, the Commission issued a Working Document on December 5, 2001, titled as ‘The Relationship between safeguarding internal security and complying with international protection obligations and instruments’. This document stated that the policies and instruments relating to asylum matters

\[\text{could offer real possibilities for identifying those suspected of terrorist involvement at an early stage [and] provide tool for States to strengthened national security. …It is legitimate and fully understandable that Member States are now looking at reinforced security safeguards to prevent terrorists from gaining admission to their territory through different channels. These could include asylum channels, though in practice terrorists are not likely to use the asylum channels much, as other illegal channels are more discreet and more suitable for their criminal practices. Any security safeguard therefore needs to strike a balance with refugee protection principles at stake (Commission of the European Communities 2001a: 6).}

Here, two points were emphasized by the Commission; on the one hand, ‘bona fide refugees and asylum seekers should not become the victims of recent events’ and on the other hand, those supporting or committing terrorist acts should not be allowed to abuse asylum system in order to gain access to the territory of member states (ibid.).

However, the subsequent measures concerning the admission and entry of asylum seekers were not exclusively linked to threat of terrorism. Previous years’ approach, which focused on curbing further asylum applications and preventing the so-called ‘bogus asylum seekers’ and/or ‘economic immigrants’ from entering the EU territory, remained intact. For example, this continuity was seen in case of imposition of visa requirements on asylum seekers. Previously, this requirement was not explicitly codified. However, with the amendment of the Council Regulation 539/2001 by the Council Regulation 1932/2006,
visa requirement for recognized refugees and stateless persons was provided in the Community law. Article 1 of the Regulation was amended as follows:

Without prejudice to the requirements stemming from the European Agreement on the Abolition of Visas for Refugees signed at Strasbourg on 20 April 1959, recognized refugees and stateless persons shall be required to be in possession of a visa when crossing the external borders of the Member States if the third country in which they are resident and which has issued them with their travel document is a third country listed in Annex 1 to this regulation (Council of the European Union 2006).

Even though there is no reference to unrecognized refugees in the Regulation, practically, they became also subject to visa requirements in cases where they are coming from the “blacklisted” countries. This is because Article 1 of the CCV makes it clear that rules for processing visa applications ‘apply to any third-country national who must be in possession of a visa when crossing the external borders of the Member States pursuant to Council Regulation (EC) No 539/2001 of 15 March 2001 […]’ . The same Regulation, under Article 2, defines ‘third-country national’ as ‘any person who is not a Union citizen […]’. Even though it is still not clear that whether this definition also covers refugees and stateless persons, the EC in its ‘Comment on the [CVV] verifies that ‘the concept of “third-country national” […] also includes refugees and stateless persons’ (Commission of the European Communities 2006; see also Moreno Lax 2008).

Critics argue that it is not understandable how a person in risk of persecution would be able to get a visa to enter the EU. It is contended that by this restriction, it became clear that imposition of visa requirement for asylum seekers implies ‘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).
Lastly, carrier sanctions, which was initially provided by the CISA, was further harmonized by the Council Directive 2001/51/EC of 28 June 2001 (see Council of the European Union 2001b). In fact, carrier sanctions have been justified as a tool for the ‘fight against irregular immigration’ (Tokuzlu 2006: 299). However, practically, it has grave consequences for those attempting to seek protection in Europe. This is mainly because, this legislative frameworks obliged carriers to make sure that those wishing to travel to Europe is in possession of valid travel documents required for entry into the territory of the EU. As noted above, it is less likely for asylum seekers originating from ‘black listed countries’ to have a visa. Against this, as commented by Tokuzlu:

The carrier sanctions are criticized for not being adequately capable of differentiating refugees from illegal migrants. This complex task that requires technical skills cannot be performed sufficiently by carrier personnel who lacks the necessary formation and the means for making such assessment. Furthermore, 1951 Refugee Convention imposes the responsibility for refugee status determination to the State Parties. Whereas, imposition of carrier sanctions results in the privatization of such services since they force the staff of carrier companies to adopt the role of immigration authorities of Member States (ibid. 312-313).

These securitizing practices, aiming at keeping asylum seekers away from the European territory; thereby preventing them from lodging their claims and gaining a secure judicial status, are not directly related to terrorism. They reflect the continuity of previous years’ approach. However, one of the interviewee from the EC involving in the preparation of asylum-related legislative texts stated that these entry barriers are essential in the sense that:

One of the basic concern of the EU is to protect what we call the integrity of asylum system, which means to protect it against the abuses both by people who are not genuine asylum seekers, because they want to come here for economic reasons, and also by people
who might be a security threat and who are using the asylum system to find legal residence in the EU (BE₁).

3.4.2. Technologized Border Control Practices

In the post-September era, regarding the securitization of migration, the most crucial changes were witnessed in the area of technological practices. Indeed, as foregrounded before, the pre-September 11 period already showed the importance attached to the databases in dealing with migration and initiated the securitization process in this field. The post-September 11 period took this process one-step further through ‘improving’ the content, functioning, features of these databases, extending access to them for different authorities as well as by creating new databases. As Ceyhan (2005: 209) eloquently contends that following the September 11, ‘more and more governments seek to adopt new technologies of identification in order to securitize identities and identification means and monitor the movements of people inside a given state as well as across borders.’ As one of the interviewee, who is an expert on databases and biometrics, stated that these databases came to be seen not only as a weapon against irregular immigrants and asylum seekers, but also as instruments in countering terrorism (NSOE₃). Another interviewee added by pointing to the changing notions of ‘enemy’ and ‘terrorism’ in the post-September 11 period, these databases have been easily justified to find out ‘enemy’, who can be anyone and everywhere as well as who can be ‘mobile’ crossing ‘borders’ (AE₃). Within this setting, the following developments will be scrutinized to assess whether technological practices have contributed to the securitization process particularly with a reference to terrorism.
3.4.2.1. Inclusions of Biometrics into the EU Passports

To reiterate, for the purposes of migration control, biometrics\textsuperscript{35} have already entered into the EU framework in 2000 through the Eurodac system, which contains fingerprints of asylum seekers and irregular immigrants. However, in the aftermath of the September 11, the scope and function of biometric usage were considerably extended, as security of identity documents was given prominent place in the fight against terrorism (NSOE\textsubscript{3}). For example, biometrics were defined as the most appropriate tool to this end during the Laeken European Council (December 2001) and Seville European Council (June 2002). Later, this stance was reiterated by the 2004 Hague Programme calling for ‘a coherent approach and harmonized solutions in the EU on biometric identifiers and data’ for the ‘fight’ against irregular immigration as well as for the prevention and control of terrorism (European Council 2004a: para 1.7.2). Accordingly, as a means of preventing the entry of possible terrorists into the EU, this approach was codified by the Council Regulation (EC) No. 2252/2004 of 13 December 2004 on standards for security features and biometrics in passports and travel documents (see Council of the European Union 2004a). Indeed, this legislative step was also taken as a response to American call ‘for the inclusion of high security features in the passports of countries subject to the American visa waiver programme (VWP)’ (Baldaccini 2008: 34). As the next sections will demonstrate, biometric features have increasingly become a part of the old and new databases.

\textsuperscript{35} Biometric technology, defined by the Report on the Impact of Biometrics drafted by the Joint Research Center for the Commission (hereafter: JRC), refers to ‘physical or biological features or attribute that can be measured’ (JRC 2005:35). Accordingly, the Commission selected face recognition, finger print recognition, iris recognition and DNA as biometric identifiers.
3.4.2.2. Amendments to the SIS and Introduction of the SIS II

As detailed previously, the SIS came to be used to ensure internal security in the face of abolition of internal border controls. Its importance was much more underlined in the post-September 11 era. Significant amendments were made concerning its purpose, functionalities and roles. When these changes started to take place, the negotiations on the creation of a second generation SIS – namely SIS II – also intensified. Even though the idea of introducing the SIS II has been already on the agenda since 1996 in order to accommodate the needs resulting from the anticipated 2004 enlargement, the September 11 accelerated the steps taken towards this end (AG₂). As the full materialization of the system has not been achieved yet due to the enduring technical problems, especially regarding data consistency, the proposed changes that were envisaged for the SIS II, were either integrated into the SIS I or added to the draft text on the SIS II (Parkin 2011: 10). In general, these amendments provided wider access to law enforcement authorities and administrative agencies, introduced new functions, allowed more types of personal information to be retained and reduced data protection standards’ (Statewatch 2002). These will be detailed below.

Concerning data access, the fundamental change came following the German delegation proposal, supported by the UK, on extending access to the SIS beyond the police and custom officers, namely for Europol and Eurojust (see Council of the European Union 2001c). In fact, this proposal has been on the agenda of Germany since the late 1990s (Parkin 2011: 10). The post-September 11 environment gave strong legitimacy to these discussions. Following the JHA Council Meeting of 19 December 2002, it was decided to allow Europol and Eurojust to have access to the SIS. However, it was reserved

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36 One of the interviewee stated that a trade-off between security and liberty was easily constructed in connection to the terrorist threat not only among politicians, but also among ‘native’ population, which have been increasingly subject to biometric and technological surveillance mechanisms (PE₃). Within this context, certain policy changes, including the amendments to the SIS were adopted in a much easier way.
that immigration data stored under Article 96 of the CISA shall be exempted from this access (Council of the European Union 2002b). It should be noted this decision was taken without amending the CISA, which originally restricted the access to SIS data to police, border control and custom agencies. Instead, its provisions were reinterpreted (Hayes 2005). To reiterate, Article 93 defined the purposes of the SIS as ‘to maintain public order and security, including the national security’. Relying on this vague provision, this access was justified despite the existing of another provision - that is Article 101, which forbids the extension of access beyond police, border control and custom agencies.

Following this, another significant novelty came into being with the Council Regulation (871/2004) of 29 April 2004 concerning the introduction of some new functions for the SIS, in particular in the fight against terrorism at the initiative of Spain. This Regulation, indeed, codified the above-mentioned decision; thereby, officially, granting access to the SIS to Eurojust, Europol, and national public prosecutors offices with a reference to terrorism (see Council of the European Union 2004b). These decisions were reaffirmed and furthered by the Council Decision (211/2005) of 24 February 2005 concerning the introduction of some new functions for the SIS, in particular in the fight against terrorism (see Council of the European Union 2005b). By this way, migration tools and databases were explicitly employed as a means to be used in the fight against terrorism. This is a clear securitization, as it signifies a direct convergence of migration practices and agendas with that of counter-terrorism.

Furthermore, addition of new categories of alert and data, including biometric features were agreed upon. As regards to former, even though the SIS has already included data on those criminal aliens or ‘in respect of who there is a clear evidence of an intention to commit [criminal] offences in the territory of a Contracting Party’, a new category of alert covering ‘suspected terrorists’ was created (Hayes 2005). Hence, this change, again,
was put into place as a direct and explicit response to terrorism. Concerning the second one, incorporation of biometric features into the SIS was agreed with the goal of fighting terrorism during the Ecofin Council Meeting in 2002. Following, it was decided to call IT companies to restructure the SIS. In 2006, to codify this attempt, a new Regulation was drawn up which amended the previous rules laid down by the Regulation of 871/2004 and Council Decision of 211/871 (see Council of the European Union 2004b). This amendment opened the possibility to incorporate biometric features into the system. The inclusion of biometric features not only serve to ‘confirm one’s identity (one-to-one search)’, but also ‘to identify somebody (one-to-many search)’ (Baldaccini 2008: 38). Baldaccini argues that this change deeply restructured the functioning and objective of the SIS, as

One-to-many searches transform the nature of the SIS from a database used for control purposes to one which can be used for investigative purposes, enabling so-called ‘fishing expeditions’ in which people registered in the database will form a suspect population. [In this respect] the EU’s securitization agenda is resulting in a shift of purpose of the SIS from a border control tool to a reporting and investigation system for general crime detection purposes: the database, originally conceived of as a compensatory measure for the lifting of internal border controls, is being developed in a way that disconnects it from its original purpose of allowing the free movement of people in the Schengen area and makes it an objective in itself (ibid. 39).

Another signifier of the securitization of migration is exemplified by a proposal to provide ‘interlinking of alerts in SIS’ (Mitsilegas 2007). This is likely to pave the way not only for the transformation of the nature and purpose of SIS, as mentioned above, but also for the elimination of distinction between migration and police data stored in the SIS (ibid.). As the EDPS state interlinking of alerts signifies ‘a very typical feature of a police investigative tool’ (EDPS 2006).
3.4.2.3. Passenger Name Records and Advance Passenger Information System

In the aftermath of the September 11 attacks, the cooperation between the US and the EU regarding migration and border control issues intensified. In fact, this cooperation was prompted by the US pressure (Brouwer et al. 2003: 170). On 16 October 2001, Bush administration submitted a letter to the Commission President Prodi, outlining various measures for the cooperation between the EU and US in the course of the ‘war on terror’. Having defined its major aim as combating terrorism as well as organized criminal networks, this proposal, entitled as ‘US Proposals for cooperation on border control and migration management under the umbrella of US-EU counter-terrorism operation’, listed the measures to be applied as follows (Coleman 2007: 38):

- Increased gate and transit passenger checks at airport;
- Exchange of data between migration authorities on persons who are a threat to public safety;
- Broader European carrier participation in the Advance Passenger Information System;
- The use of European transit facilities for the return of persons from the US;
- Co-ordination of border security training and technical assistant provided in third countries;
- Document security;
- Exchange of information on stolen and forged documents;
- Co-ordination of false document training;
- The use of immigration law and procedures, instead of the process of extradition for the removal of terrorists and other fugitives.

This set of measures, which directly defined migration practices as a means in countering terrorism, structured the US-EU cooperation in the post-September 11 period. In this context, the most notable issue, which attracted much of the criticisms and linked migration directly to terrorism is the EU/US Passenger Name Records (PNR) Agreement.
It was signed on 18 February 2003. Under this agreement, airlines operating transatlantic flights were obliged to transmit identities and personal data of passengers (names, all available payment information, whole contact information of the passenger, etc.) to the relevant border protection and custom prior to their departure. The official goal of this agreement, as stated by both parties, is to ‘prevent, detect, investigate and prosecute terrorist offenses and related crimes as well as other serious cross-border crimes punishable by a sentence of imprisonment of at least three years’ (see PNR Agreement 2007; Council of the European Union 2012). Against this agreement, the EP and civil society organizations have continuously expressed their resentment on the ground that the scope of the agreement is not compatible with Article 25 of Directive 95/46/EC of 24 October 1995 on the protection of individuals with regard to the processing of their personal data (PE₂; BE₄). This Article stipulates that transmission of personal data to a non-member state can only take place as long as this state has an adequate level of data protection (see European Parliament and the Council of the European Union 1995). In line with this Article, critics argue that the US has significant deficiencies concerning data protection (NGOE₃; AE₁; Statewatch 2007). In the face of raising concerns, the EC issued a decision – the so-called ‘adequacy finding’ – on December 2003, which stipulated that the US’s data protection standards were adequate for the transmission of PNR data, though this decision was also seen as problematic (Coleman 2007: 45). However, the EC reiterated the same view in its decision taken in May 2004 (see Commission of the European Communities 2004). Within this setting, it was decided to apply the agreement on a provisional basis in 2007. However, in May 2010, the EP decided to postpone its vote on the request for consent on the existing PNR agreement and demanded the negotiation of new agreements with the USA (Council of the European Union 2012).³⁷

³⁷ It should be updated that while writing this thesis, the Council adopted the decision on the conclusion of a
Parallel to this development, the EU passed a new legislation with a similar purpose upon a Spanish initiative for establishing an Advance Passenger Information System (APIS) in 2003. Spanish proposal called for air and sea carriers to transmit large spectrum of data to border control authorities prior to their departure with the aim of curbing migratory flows and combating irregular immigration (see Council of the European Union 2003a). Following this proposal, a heated debate erupted on the purpose of this system. During the negotiations, certain fronts advocated the use of such a database as a counter-terrorism tool as well. For instance, Caroline Flint, former Home Office Minister (UK), stated that the proposal ‘is all about border control, whether it is illegal immigration or criminals coming in, or people who are threat to national security’; and she further argued that it was necessary and justifiable ‘for the purpose of identifying known immigration and security threats’ (House of Lords 2004: para. 9). This stance attracted wide range of criticisms. Opponents argue that this overlapping of migration and counter-terrorism instruments run counter the principles of data protection and proportionality (Mitsilegas 2007: 378). It was further argued that the convergence between migration control and counter-terrorism purposes under the same framework raised questions about the ‘legality of its adoption under the first pillar’ at the time of its implementation, where pillar system was still present (ibid. 377). This is mainly because, in the meantime, namely before the Lisbon Treaty, immigration issues fell under first pillar (Title IV), while counter-terrorism measures were dealt with under the third pillar (Title VI). In this setting, Mitsilegas (2007: 377) argues that ‘the transmission of Advance Passenger Information (API), if justified as a border control and counter-terrorism measure, would necessitate a dual legal basis in both the first and third pillars’ which thereby necessitating ‘two distinct legal instruments’, a ‘Title IV’ (first pillar) directive and a ‘Title VI’ (third pillar) framework decision.’

new EU-US PNR agreement, which will replace the existing one on 26 April 2012.
Despite these legal controversies, the proposal was codified with the Council Directive 2004/82/EC of 29 April 2004 on the obligation of carriers to communicate passenger data. It can be rightfully argued that the Madrid Attacks acted as a catalyst for this development because the European Council Declaration on Terrorism of 2004, adopted following the attacks, urged the implementation of this Directive. Recital 2 of the Directive proves this by stating that:

The European Council of 25 and 26 March 2004 adopted a Declaration on combating terrorism stressing the need to expedite examination of measures in this area and take work forward on the proposed Council Directive on the obligation of carriers to communicate passenger data with a view to an early conclusion on this measure (Council of the European Union 2004c).

As in case of the initial proposal, the main purpose, laid down under Article 1 of the Directive, is to ‘combat illegal immigration effectively and to improve border controls’ through transmission of passenger data by air carriers to border control authorities (ibid.). More specifically, air carriers became obliged to communicate data on date of birth, nationality, point of embarkation and border crossing entry point of passengers travelling to the EU from third countries. Besides, it called for the harmonization of financial penalties to be imposed on carriers, which would not comply with this requirement. However, despite this focus on ‘combating irregular immigration’ as the main objective, Article 6 of the Directive still allows member states to use these data for law enforcement purposes, - that means for the purposes of crime-control and combating terrorism. Referring to the negotiation process and content of the adopted Directive, Mitsilegas (2007: 380) argues that:

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

### 3.4.2.4. Visa Information System

Another novelty in the post-September 11 period came up with the introduction of the Visa Information system (VIS). It can be safely stated that whereas the ‘overall purpose of [introducing the VIS] is to improve the implementation of the common visa policy’; it is, indeed, a direct result of the September 11 and related to counter-terrorism objectives (Ahumada-Jaidi 2010: 15; Baldaccini 2008: 39; see also Steve 2006: 165). This was officially confirmed by the EU by stating that one of the purposes of the VIS is also to ‘contribute to the prevention of threats to internal security of any of the Member State’ (European Parliament and Council of the European Union 2008a).

To detail the background of the VIS, certain points should be underlined. At the extraordinary JHA Council Meeting, held in the immediate aftermath of the September 11 attacks, the necessity to strengthen the procedures in issuing visa was emphasized and the Commission was called on to prepare a proposal regarding the establishment of a network for information exchanges on visas issued by the member states (see European Council 2001a). As in case of the amendments made to the SIS, introduction of the VIS was also based on the conclusions of the European Council in Laeken in December 2001, and in Seville in June 2002, which stressed the need for the establishment of a common identification system for visa policy to ensure internal security and fight against terrorism. This call was repeated in the conclusions of the European Council in Thessaloniki in June 2003 and in Brussels in March 2004. Following a feasibility study and preparation of the guidelines for its functioning, its legal and financial basis were agreed upon with the Council Decision of 8 June 2004 establishing the VIS. This decision also envisaged the
inclusion of biometric features into the system. Now, it is necessary to take a closer look at the functioning, content and scope of the system in order to assess whether it has also securitized migration further particularly in relation to terrorism.

First, concerning the purpose of the system, the main objectives can be listed as follows: [to prevent] the use of fraudulent documents; to improve visa checks; to improve identifications of individuals for the application of provisions in relation to Dublin II and the return procedure; to enhance the administration of the common visa policy; to prevent ‘visa shopping’ by ensuring the traceability of every individual applying for a visa and to strengthen EU internal security’ (Balzacq and Carrera 20006: 22). For Mitsilegas (2007: 390-391), these objectives, especially the constructed linkage between visa policy and internal security, reflect ‘the logic of the security continuum.’

Second, access to the VIS was initially restricted to visa and custom authorities. In the following years, fight against terrorism shaped the functioning of the system much more. In the aftermath of the agreement reached between the Council and Parliament, which gave birth to the Regulation of the European Parliament and of the Council of 767/2008 concerning the VIS and the exchange of data between Member States on short stay visas, access to the VIS was extended to ‘designated authorities of the Member States’ – namely internal security agencies and the Europol (Brouwer 2008: 12). Article 3 (1) of the Regulation on the availability of data for the prevention, detection, and investigation of terrorist offences and other serious criminal offences, states that this access is permitted in cases where ‘there are reasonable grounds to consider that consultation of VIS data will substantially contribute to the prevention, detection or investigation of terrorist offences and of other serious criminal offences’ (European Parliament and Council of the European Union 2008a). Besides, the following paragraph, namely Article 3 (3), extends the possibility of access to the database further by stating that: ‘in an exceptional case of’
urgency, such data may be transferred or made available to a third country or an international organization exclusively for the purposes of the prevention and detection of terrorist offences and of other serious criminal offences and under the conditions set out in that Decision’ (ibid.). By this extension, the VIS turned into a law enforcement tool in the fight against terrorism as well.

Last, but not the least, the Regulation, also, reaffirmed the inclusion of biometric features into the system. Indeed, in 2005, it was already decided to give priority to North African and Near Eastern countries for the collection of biometric data to be entered in the VIS with a reference to ‘risk of “illegal” immigration, threats to internal security and feasibility of collecting biometrics’ (Council of the European Union 2005c). This was later extended to all third-country nationals applying for Schengen visas (European Parliament and Council of the EU 2008a). Biometric features are represented as the most effective means not only to ensure internal security against threats, including terrorism, but also to counter forged and fraudulent documents as well as to prevent the so-called ‘visa shopping’ (Casale 2008: 66; Baldaccini 2008: 40). Such a discriminatory and repressive approach signifies that by relying on the VIS, the Union classify countries according to risk potentials and categorize citizens of certain countries as potential criminals even before reaching the territories of the Union. Indeed, anyone willing to travel to the EU who is in need of visa, would need to provide biometrical data to relevant authorities, as well as several other personal documents ranging from details of bank accounts to properties owned (Benam 2011: 182).

3.4.2.5. Establishment of Synergies between Existing and Future Databases

Today, all these databases can be considered as the milestones of the EU’s migration policy in tandem with its security objectives. Most notably, apart from above
detailed changes regarding the scope and functioning of these databases, new critical
tendencies have been on the way. Especially following the Madrid attacks of 2004, the
calls for the usage of all these databases for law enforcement purposes have intensified.
The EU Declaration on Combating Terrorism adopted after the attacks, directed the
Commission ‘to explore the creation of synergies between existing and future information
systems in order to exploit their added value…in the prevention and fight against terrorism'
and ‘to bring forward proposals to enable national law enforcement agencies to have
access to EU systems’ (European Council 2004b:7). Similarly, the Hague Programme
underlined that ‘better exchange of information, including by means of more extensive
access to existing EU information systems, is one of the ways in which the aim of
strengthening security is to be achieved’ (European Council 2004a). The London bombings
of July 2005 strengthened these calls further. At the Extraordinary JHA Council Meeting
held following the London attacks, the Commission was invited to make proposals to
enhance synergies and interaction between the VIS, SIS, etc. (Council of the European
Union 2005d: 7). Recently, the Stockholm Programme, establishing ‘security and justice’
agenda for the period 2010-2014, put enormous importance on the role of databases and
called for the interoperability of databases with the extension of their access to security
agencies for the purposes of migration control and counter-terrorism (Wicht 2010).

As discussed already, this emerging security architecture has raised heightened
concerns about its impacts over human rights and civil liberties. One strand points to the
erosion of personal freedom and privacy (Casale 2008: 67). At the EU level, especially, the
EP has drawn the attention to the possible infringement of civil rights, by stating that these
sensible data with biometric features stored in centralized databases ‘would be like using a
sledgehammer to crack a nut’ (Euractiv 2004). On the other hand, second strand of
criticisms centers on the social and political effects of these practices. As put forward by
Lyon (2003), today much of the discussions focus on the intrusion of these technologies into the privacy of people; yet he argues that even though these individualistic concerns are absolutely right in their responses, few traces to the more profound impacts of surveillance developments since the September 11. Firstly, it is argued that, besides the lack of accountability, insufficient judicial and democratic oversight, secrecy, possible misuse of personal information characterizing the implementation and functioning of these databases, today, they are used to control whole population and imprison politics. These practices, which are presented as merely technical issues, requiring expert knowledge, de-politicize very political character of surveillance practices (Lyon 2003; PGE). Secondly, contemporary technological practices used in migration field affect the construction of identities and, what Lyon asserts, perform the role of ‘social sorting’. Albeit all people, regardless of their certain characteristics, can be subject to these practices in one way or other, the racial, ethnic and religious profiling and sorting practices have built the basis of the contemporary surveillance. Asylum seekers, Muslims and Arab communities, Middle Eastern students are the most targeted group under the gaze of surveillance (EGP; GCDP). In this vein, for example, the objectives of the biometrics go well beyond the verification of someone’s identity; biometrics turn into a mechanism to categorize people as dangerous and non-dangerous; thereby allowing or denying certain rights and entitlements on the basis of their dangerousness and worthiness (see Ceyhan 2008: Muller 2004; Lyon 2003). By the same token, these practices have become a tool of ‘exclusion’ and ‘inclusion’ by the way of rendering some ‘legitimately present’ and denying the same ‘legitimacy’ to others (Lyon, 2003: 81). Hence, as what Ceyhan (2008: 113) contends, technological practices and particularly biometrics ‘attribute certain kind of identity to a person’ under the label of ‘risky’, or ‘safe’ or, today’s well known distinction, of ‘good Muslim’ and ‘bad Muslim’ and make her/his inclusion conditional upon the degree of her/his dangerousness. This
‘social sorting’ and discriminatory character of the surveillance practices are to duplicate and augment the already existing ‘social, economic and cultural divisions’ (Lyon 2003: 34-35). Furthermore, as Brouwer (2006: 138) truly asserts that

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

3.4.3. Militarized Border Control Practices

In the pre-September 11 period, the EU did not develop any notable systems of border vigilance or operational cooperation to deal with migration movements across physical borders. The reason was that control of physical borders was exclusively under the discretion of member states and conducted by the involvement of national security officials and border guards. This will be more clearly seen in the context of national case studies. However, in the post-September 11 period, important changes and developments are traced within the field. Of those, the most significant one is the creation of the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union, titled under the acronym Frontext, on 26 October 2004 and having become operational in May 2005. The Agency, indeed, institutionalized the European border management regime. Its origin is found in the
counter-terrorism policy framework, but, as will be detailed below, it has later turned into one of the main body in the ‘fight’ against irregular immigration.

To detail the background of its formation, first, as mentioned in the context of previous developments, the linkage between border control, migration and fight against terrorism and the necessity to establish a more harmonized and unified border control policy at the EU level were emphasized in various official statements and during the Council meetings following the September 11 attacks. For instance, in its Communication of 15 November 2001 on a common policy on irregular immigration, the Commission (2001b) stated that:

> Border controls must in particular respond to the challenges of an efficient fight against criminal networks, of trustworthy actions against terrorist risks and of creating mutual confidence between those member states, which have abandoned border controls at their internal frontiers.

This association of border control with fight against terrorism came to be much more consolidated during the Laeken Council of December 2001, which was held shortly after the September 11 attacks. Its conclusions reiterated the security continuum established between terrorism, irregular immigration and human trafficking by stating that:

> Better management of the Union’s external border controls will help in the fight against terrorism, [irregular] immigration networks and the traffic in human beings. The European Council asks the Council and 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 2001b: 12).

Within this context, a new concept was introduced, i. e. ‘integrated management system for external borders’ or the so-called Integrated Border Management (IBM). IBM was grounded on a securitarian logic, which was already put forward by the Tampere
Conclusions, and then replicated in the Laeken Conclusion, - that is ‘better management of the Union’s external border controls will help in the fight against terrorism, illegal immigration networks and trafficking in human beings’ (ibid.). As it is seen, again security concerns and migration were placed and handled within the same framework. The main goals of this system were listed as follows (ibid.):

- Accomplishing border control and surveillance
- Analyzing the risks
- Anticipating personnel and facility need

Followingly, the Commission issued a Communication, titled ‘towards an integrated management of external borders.’ Accordingly, the Communication called for setting-up an ‘External Borders Practitioners Unit’ and eventual establishment of ‘European Corps of Border Guards’ in May 2002 (Commission of the European Communities 2002). Shortly afterwards, the Council introduced its Action Plan for external border management in June 2002. This plan also supported the creation of a ‘European Corps of Border Guards’ with the reservation that this body shall be only complementary to the national border police forces, not replace them (Council of the European Union 2002c). Within this setting, the Action Plan’s focus was more on ‘operational cooperation and co-ordination’ and less on ‘common legislation and financing’ (Mitsilegas 2007: 364). This was followed by the JHA Council Meeting of April 2002, which emphasized the strengthening of controls at sea borders through creating operational mechanisms (Council of the European Union 2002d). Later, the Seville Summit reiterated these concerns and urged to accomplish following objectives before the end of 2002:

- Joint operations at external borders;
- Immediate initiation of pilot projects open to all interested Member States;
Creation of a network of Member States’ immigration liaison officers (European Council 2002: 10).

In fact, as one of the interviewee foregrounded, the Seville Summit was obsessed with security issues and ‘fight’ against irregular immigration, as the September 11 reinforced the linkage between security and migration (AS₈). Following this Summit, the political agreement on the establishment of an agency responsible for the management of external borders was achieved at the Thessaloniki European Council of 2003. This agreement found its legal basis within the Council Regulation of 2007/2004 of 26 October 2004 and the Agency became operational in May 2005 with its headquarters in Warsaw (see Council of the European Union (2004d).

It is necessary to mention that ‘the link between security, terrorism, migration and borders that was present in 2001 and 2002’, was less emphasized by 2003 and by 2004 during the negotiation process establishing the Agency (Neal 2009: 343; Coleman 2007: 54). Even after the Madrid attacks in March 2004, there was no direct reference to the Agency in the context of the Action Plan for Combating Terrorism adopted by the Council in March 2004. The reason, as put for forward by scholars, is that during that time, the attention was directed towards prospective enlargement in 2004 and possible increase in irregular immigration to Europe due to the ‘insufficient’ and ‘weak’ border control mechanism of the prospective members³⁸ (Leonard 2009; Monar 2006). Therefore, the focus was centered on the linkage between border management and ‘fight against irregular immigration’ in the final stage of the Agency’s establishment.

On the other hand, others argue that this shift is related to the changing assumptions concerning the entry pattern of terrorists (Coleman 2007: 57). As mentioned already, in the immediate aftermath of the September 11, the common view was that terrorists could

³⁸ Similar opinions were put forward during an interview with a security expert on Frontex (SEE₂).
abuse the loopholes in the border control mechanisms and enter Europe through irregular channels. However, this has changed, as the cases of Madrid and London attacks demonstrated that perpetrators of the bombings were migrant-origin with regular status. Within this context, as Coleman as well as one of the interviewee assert that:

Under the assumption that persons who attempt entry with the intent to commit terrorist acts are more likely to do so through regular channels, an explicit linkage between border control and combating terrorism cannot be justified while the effect of measures directed at countering and preventing illegal migration flows on the cross-border movement of alleged terrorists is, arguably, limited (ibid. 57).

In this specific setting, as put by Neal (2009), rather than a direct political link between terrorism and migration, a more technocratic framework marked the latest framework of the Frontex, though ‘the link between security, terrorism, migration and borders […] was being institutionalized’ in the first stage of its establishment. This shift was also reflected in the terminology characterizing the name of the Agency. Namely, Mitsilegas (2007: 364) points out that the emphasis on ‘management’ of the borders rather than ‘control’ reflects a ‘shift from a purely security-related approach to a more global one, focusing also on the smooth crossing of borders by bona fide travelers.’ Yet, he further argues that this change in terminology is to be also seen as an attempt ‘to de-politicize the issue while at the same time justifying the creation of a Community body, upon the model of existing Community agencies deemed necessary to “manage” Community policies’ (ibid.). In effect, today, the Agency is framed as a significant tool to ‘manage’ irregular immigration in a ‘humanitarian way’. Its task is depicted to rescue irregular migrants, who risk their lives particularly in Mediterranean while attempting to enter the EU (PE2).

Against this backdrop, it can be also added that representation of the Frontex in this way is

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A security expert from Germany drew the attention to this point by stating that, following the Madrid and London attacks, concerns about ‘travelling terrorist’ have shifted into those about ‘terrorist within’ (SEG1).
to reveal how securitization of migration came to be operationalized in a more
‘normalized’, ‘routine’ way, as the Paris School contend.

Hence, even though the September 11 and Madrid attacks provoked a linkage
between migration and terrorism during initial negotiations pushing for the Agency, and
fight against terrorism and other criminal activities have been defined as part of its
missions in various official statement, it turned into one of the key mechanisms providing
operational cooperation for dealing with irregular migration in the following years
(NGOE₁). This is also reflected in the Article 2 of the founding Regulation of the Agency,
which outlined its main tasks as follows (see Council of the European Union 2004d;
Frontex website):

- Risk analysis on the irregular movements targeting member states;
- Coordination of operational cooperation between member states on the basis
  of this risk analysis and proposing joint operations at the Union’s external
  land, sea and air borders;
- Training of the border guard authorities of member states;
- Facilitating the attainment of research and development goals;
- Providing a rapid crisis-response capability available to all member states;
- Assisting member states in joint return operations.

To date, even though member states have still maintained their exclusive authority
over their borders, the Agency has organized various joint operations at the external
borders of member states/the EU and become much more active in other tasks. Its budget
and human resources have grown rapidly. Besides, its operational role has been expanded,
especially following the adoption of the Regulation amending Council Regulation (EC)
2007/2004 in 2007, as will be detailed below.\textsuperscript{40} At the same time, it has become subject to intense criticisms of various sectors, ranging from human rights organizations and pro-immigrant groups (Leonard 2009 and 2010b; Wolff 2008; Baldaccini 2010; Rijpma 2010). Now, the following pages will scrutinize whether/how practices of the Agency in fulfilling these tasks and its operational framework contributed to the securitization of immigration, though, as mentioned above, this securitization is to be much more related to the ‘fight against irregular immigration’ rather than combating terrorism.

\textit{Joint Operations:}

These joint operations are conducted in cooperation with border guards from member states. To support these operations, the ‘Central Record of Available Technical Equipment’ (CRATE) was created, specifying ‘items of surveillance and control equipment that member states are willing to put at the disposal of another member state for a temporary period of time (Leonard 2010b: 239). As of 2010, the CRATE has been in possession of 26 helicopters, 113 vessels, 22 fixed-wing aircrafts, and 476 other equipment, such as vehicles, thermal cameras, mobile radar units, heartbeat detectors, and mobile radar units’ (Frontex 2010a). As put forward by various scholars, these joint operations conducted by the Agency signify a decisive and clear securitization practices on several points (see Leonard 2010b; Lutterbeck 2006). First of all, such sort of cooperative actions among states, especially those conducted at sea borders, ‘have been traditionally been deployed to address more traditional security issues, such as military attack from a third state, piracy or drug trafficking’ (Leonard 2010b: 17). Furthermore, as it will be detailed in the Spanish case, the involvement of actors with para-military status from

\textsuperscript{40} Recently, the Commission published a proposal for a Regulation amending Council Regulation (EC) 2007/2004 on 24 February 2010. This proposal envisages the expansion of the Agency’s role much more, but without correcting the existing deficiencies concerning the judicial and democratic oversights. Among the proposed new powers are co-leading role for the implementation of operations together with the host State, and formal responsibility for drawing up the operational plan for joint operation or pilot project, (see for a detailed consideration on the issue, ECRE and AI (2010)).
member states, such as Civil Guard of Spain, in these joint operations reveals how militarization and securitization of migration controls are intensified by the practices and institutional structure of the Frontex. Furthermore, these joint operations are controversial from a legal point of view as well (Guild and Bigo 2010; Baldaccini 2010; Gil-Bazo 2006). To be more precise, Frontex operations are likely to prevent asylum seekers from lodging their claims in European countries. Those seeking protection are indiscriminately treated as part of irregular and ‘economic’ immigrants or the so-called ‘mix flows’ (AS$_0$). Turning migrants back across the borders without taking into account their possible claims for asylum, impedes the principle of non-refoulement enshrined in the 1951 Geneva Convention. This is mainly because, as put forward by the UNCHR, non-refoulement principle, also requires ‘non-rejection at the border’ meaning that persons cannot be sent back to a country where there is a possibility of prosecution, torture and other forms of ill-treatments (Debenedetti 2006: 23). In a similar vein, as argued by Papastavridis (2010: 75), ‘the application of the [principle of non-refoulement] appears to be especially problematic in the majority of [joint operations conducted by the Frontex] since it is very likely that the persons onboard the intercepted vessels would be forced to return their countries of origin, where they may be subject to torture or inhuman or degrading treatment.’ Further, as the Frontex activities extend beyond the maritime borders of member states in particular and of the EU in general, it becomes problematique to apply ‘the Community governance and the regime protection provided by the border of the European Community’ (Carrera 2007: 25). Hence, those prevented from entering the European territory by Frontex may no chance to apply for asylum, as they are not dealt with case by case (NSOG$_1$). In fact, by this way, responsibility for the refugee protection is to be shifted to zones outside the EU, where member states are supposed to not have any jurisdiction. However, critics, who raise their concerns on the legitimacy of these practices, state that ‘jurisdiction is not
synonymous with the “territory” of a state’ (Cernadas 2009: 180-181). To be more tangible, state has also responsibility over its actions that have affected the rights of persons, even though this action takes place outside its territory. Similarly, Rijpma and Cremona (2007) question this territorial link between the responsibility of a state and its actions, and draw the attention to the extra-territorial application of the rule of law when member states’ actions produce effects beyond their borders. In a similar vein, ECRE and AI (2010: 5) posit in their joint statement that:

Although the extent of the extraterritorial application of the EU acquis remains to be determined, Member States intercepting individuals beyond their territorial waters cannot operate in a legal vacuum. Member States and Frontex appear to attribute responsibility for any possible human rights breaches to the third country concerned. Adequate measures must also be in place to ensure that those involved in joint operations are able to guarantee refugee and human rights protections in a practical way, both when they act within a territory or territorial waters, as well as extraterritorially.

**Assistance to the training of national border guards:**

As foregrounded above, another important task of the Agency is to assist member states ‘in the development of common training standards for border guard authorities, including a Common Core Curriculum, with a view to implementing a policy of Integrated Border Management’ (Frontex website). To do this, it organizes various courses, and training seminars, and establishes coordination networks in order to enhance the capacity of national authorities in joint operations under harmonized and common standards. High-level security experts specializing in policing and fighting against security threats, such as organized crime, drug and human trafficking, are the major actors carrying out the training activities. This is to be considered as part of the securitization process, whereby security professionals take predominance in contrast to human rights experts. Furthermore, as Leonard contends (2010b: 241),
The content of the training activities organized by Frontex – in particular the training sessions relating to the detection of false documents and air-naval cooperation in surveillance operations – reinforces the idea that the external borders of the EU member states are under threat by irregular migration and need to be protected through the use of sophisticated technological means, such as aerial surveillance operations.

Conduct of risk analysis:

Thirdly, this task, at the outset, depicts migration as a security risk. The Agency, indeed, represents itself as an intelligence-based body to control and manage ‘risks’ and ‘threats’. Keeping in mind that the concept of ‘intelligence’ has traditionally pointed to the information gathered in the face of threats to national security (Gill and Phytian 2006: 1), ‘the use of this concept, rather than more neutral concepts such as ‘data’ or ‘information’, already contributes to securitizing asylum and migration in the EU’ (Leonard 2010b: 242). Besides, the rationale behind its risk analysis model represents the preventive approach characterizing the securitarian framework. Laitinen (2006), the head of the Agency, reveals this very well as follows:

we assess what is the likely that threatens the external borders, border security, and EU citizens from outside. In other words, criminal pressure, in terms of illegal migration, human trafficking, and so on, not disregarding other types of organized crime and fighting international terrorism.

This again represents a security continuum established among different phenomenon, such as crime, irregular immigration, human trafficking and terrorism and, thereby, provoking criminalization of irregular immigration under a risk assessment model. Further, it fits well to what Bigo (2005: 86) describes as ‘a proactive logic which anticipates the risks and the threats, locating the potential adversaries even before they have consciousness of being a threat to others.’ More importantly, the Agency conducts this risk analysis with bodies, which put emphasis on policing and defence. Namely, it
works in close cooperation with Europol, the European Anti-Fraud Office, the Police Chief’s Task Force and Interpol in order to ensure well-founded risk analysis. Within this context, as Carrera puts it (2007: 14):

The threat against which the integrated border management and surveillance works in fact human beings who are in the process of moving towards EU territory without respecting the legal framework institutionalized by the Schengen border regime….the current conceptualization of ‘Integrated Border Management’ presents risk analysis and crime intelligence as two of its most important features. Frontex uses these mechanisms as the pivotal basis for coordinating joint operations.

Relating to this, another contentious issue is that this intelligence-based risk analysis is built upon the necessity of ensuring secrecy of operations. The Decision of the Management Board of 21 September 2006 states that:

In order to safeguard the ability of to carry out its tasks, special attention should be paid to the specific requirements of Frontex as a specialized body tasked with improving the integrated management of the external borders of the member states of the EU. Therefore, full account of the sensitive nature of tasks carried out by Frontex, in particular in relation to operations at borders and border related data should be taken (Frontex 2006).

At this juncture, the justification follows from the argument that these data and details of operations as well as sources of information should be kept in secrecy in order to secure the success of the operations (Carrera 2007: 14). However, this secrecy impedes not only the principles of transparency and democratic accountability, but also prevents public from taking a more active stance against possible breach of human rights of irregular migrants and asylum seekers in particular and rule of law in general. As contended eloquently by Carrera ‘by applying the secrecy rule the very source of legitimizing the operation cannot be at all contested, reviewed and in the end made democratically accountable’ (ibid.). This lack of transparency and democratic accountability is augmented
by the limited role granted to the EP in both negotiations of the Draft Regulation establishing Frontex and later in scrutinizing its activities, though, recently, its role was extended to control the budget allocated to the Agency.

Facilitating the attainment of research and development goals:

Another task of Frontex is to serve ‘as a platform to bring together Europe’s 400,000 border personnel and the world industry to bridge the gap between technological advancement and the needs of the end user’ (Frontex website). In doing this, a Research and Development Unit was established to act as a ‘coordinator and facilitator’ in improving the external border controls (Frontex 2007: 18). It prepares and disseminates research studies and organizes seminars and conferences, which bring together private sector specializing in security and surveillance technologies. For instance, it held a conference about the utilization of biometric technologies for the aim of border control in 2009 (Frontex 2010b: 30) and organized a workshop on the unmanned aircraft system to be used in border surveillance in 2007. The content of these events and their participants demonstrate the securitization of migration by ‘signalizing that surveillance and control technologies traditionally used to address security problems are adequate to deal with migrants and asylum seekers’ (Leonard 2010b: 244).

Providing a rapid crisis-response capability available to all member states:

Frontex is also in charge of assisting member states through providing technical and operational supports in cases where a rapid crisis-response is required. This assistance can be materialized either by creating a cooperation between two or member states or through involvement of experts from the Agency to help member states tackle these ‘crisis’ situations. This framework has become much more sophisticated through the changes laid down by the new Regulation 863/2007 amending the Agency’s founding Regulation. The most significant ‘novelty’ came with this amendment is the establishment of the Rapid
Borders Intervention Teams (RABITs) ‘for the purposes of providing rapid operational assistance […] to a requesting State facing a situation of urgent and exceptional pressure, especially the arrivals of the external borders of large numbers of third-country nationals trying to enter the territory of the Member State illegally’ (European Parliament and Council of the European Union 2007). It is stated that member states ‘may ask for the support of the RABITs under particular threat from illegal migration’ (ibid.; emphasis added). The contribution and participation of member states to the RABITs became mandatory with the Article 4 of the Regulation. It is further important to note that with the 2007 Regulation, members of the team were allowed to carry arms and to use force under the authorization of the host member states (Article 6 (6)). Against this backdrop, the framework, which utilizes the wording of ‘emergency’ and ‘crisis’, mandatory character of the participation as well as the character of the team equipped with military-devices represent again another contribution to the securitization of migration.

**Assisting member states in joint return operations:**

Lastly, Frontex was tasked with providing financial and logistical assistance to the organization of joint return operations conducted by member state. These operations are mostly taking place by air (Leonard 2010b: 245) and attract considerable public attention because migrants are exposed to inhuman and degrading treatments during their removal. Forced removals under these operations represent prevalence of security-mindset over humanitarian stance towards irregular migrants and asylum seekers.

To conclude, the institutional set up and practices of the Frontex have clearly contributed to the on-going securitization of migration. It has employed practices, which ‘have traditionally been implemented to tackle issues that are largely perceived to be security threats and extraordinary activities’ (ibid.). However, one crucial point is that despite the initial emphasis on combating terrorism during negotiations processes and,
later, in the course of official statements, after its introduction, ‘fight’ against irregular immigration became the main marker of the securitization process invoked by the Agency.

3.5. Internal Securitization

This section will examine the practices that are targeting already-entered and settled migrants (as well as those born into ‘European territory’) and assess whether these practices have securitized migration, especially as a response to September 11 and subsequent attacks in Madrid and London. At the outset, one point should be reiterated. As it was detailed before, except the issues concerning asylum, which have become part of the harmonization process, and the introduction of the European citizenship with the Maastricht Treaty, member states maintained their exclusive power regarding the practices governing the internal sphere until the Amsterdam Treaty. From that time onwards, particularly after 2000s, the EU started to produce certain binding legislative frameworks in the form of Directives as well as non-binding guidelines covering the other chosen practices (e.g. internal surveillance targeting migrants already inside the territory of member states, integration and removal practices). Yet, member states still continue to retain higher level of discretion over these issues. Hence, the national cases will provide more in-depth analyses on how/whether the securitization process has been restructured in these fields especially in the light of the international terrorism. In this respect, the following section will serve more as a conceptual and contextual background to analyze the internal securitization in the national case studies.

3.5.2. Internal Surveillance Practices

As mentioned already, in the pre-September 11 period, member states hold the monopoly in empowering surveillance practices targeting ‘migrants’ staying in their
territory. However, especially starting from the Maastricht Treaty having led to the introduction of the Eurodac addressing asylum seekers inside the member states, the EU became more active in this sphere compare to previous years. In the post-September 11 period, the EU attempted to readapt this existing framework (Eurodac) and produced new guidelines for internal surveillance practices.

3.5.2.5. Amendments to the Eurodac Regulation

To recast, the Eurodac was created in order to ‘facilitate the application of the relevant rules for determining which member state is responsible for considering an application for asylum’ (Guild 2006: 63). It emerged as an instrument to prevent the so-called ‘asylum shopping’. In the post-September 11, the most significant change came into being following the 2006 G6 Ministers of Interior Meeting in Heiligendamm, whereby the necessity to amend the Eurodac Regulation in order to provide police and law enforcements authorities with access to the database for the purposes of fighting terrorism was underlined. This proposal was further developed under the Germany Presidency. A Presidency Paper, issued at the beginning of 2007, emphasized the possible use of Eurodac for law enforcement purposes by stating 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 investigation 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 Dusseldorf, were asylum seekers…Access to Eurodac can help provide the police and law enforcement authorities of the Member States with new investigative leads making an essential contribution to preventing or clearing up crimes (Council of the European Union 2007a).
This excerpt clearly demonstrates that a direct and explicit linkage, a security continuum, between asylum issue and terrorism was established; and the utilization of migration control tools for counter-terrorism purposes was called for. Following this proposal, at the JHA Council Meeting of 12/13 June 2007, the Commission was urged to present ‘as soon as possible’ an amendment to the Council Regulation (EC) No. 2725/2000 on the establishment of Eurodac to allow for police access to the database (see Council of the European Union 2007b). After an intense and long debate at the EU level, the Commission prepared its proposal. Finally, in September 2009, the proposal for a Decision amending the Eurodac rules on access to the database was agreed upon (see Commission of the European Communities 2012). This proposal or the so-called Recast Proposal amending the Regulation 2725/2000 concerning the establishment of Eurodac laid down the conditions for the transfer of Eurodac data to the ‘designated authorities’ of member states and Europol for the purposes of ‘prevention, detection and investigation of terrorist and other criminal offences.’ It was stated that access to database by law enforcement agencies is important in detecting terrorists that were previously registered as an asylum seeker (ibid.). More precisely, it was mentioned that enlarging the access to the database:

- aims at enabling law enforcement authorities to request the comparison of fingerprint data with those stored in the EURODAC central database when they seek to establish the exact identity of or get further information on a person who is suspected of a serious crime or a crime victim. Fingerprint data constitute an important element of establishing the exact identity of a person and it is generally acknowledged as an important source of information for prevention, detection and investigation of terrorist offences and other serious criminal offences. On a 'hit'/no hit' basis, the requesting law enforcement authority will be informed if information on the person is available in the national asylum database of another Member States. In this case, further information on the person can be requested from that Member State by using existing instruments for information exchange […] on simplifying
the exchange of information and intelligence between law enforcement authorities
(Commission of the European Communities 2012: 4).

This Recast Proposal has not been codified yet due to the intense debate in the co-
decision procedure. Opponents of this proposal state that it is highly controversial to
extend the purpose of the database beyond its initial aim; besides, such a change may put
asylum seekers at risk. Furthermore, as one of the interviewee from EDPS eloquently
clarified that opening of the Eurodac as well as other migration related databases to
Europol or Eurojust tasked with fighting terrorism and crime run counter the principle of
purpose limitation in access, thereby having no legal basis, as they were created initially
with different characteristics and for different purposes (BE₄). Another interviewee from
the EP stated that

the proposal of the Council to use fingerprints of asylum seekers for investigation and
security purposes is highly discriminatory. Therefore, we said in the EP that if all MEPs’
fingerprints are going to be taken and are going to be used for security purposes, it may be
less discriminatory and maybe we can consider it. Otherwise, I do not see any reason why
asylum seekers have to give their fingerprints. Asylum seeking is certainly becoming a
security issue which should not have been. However, we should be cautious about these
moves, as there is no limit on security (PE₄).

3.5.2.6. Intensified Surveillance Against ‘Radicalization’

Especially, following the Madrid and London attacks, which have fed into the
discourse of ‘homegrown terrorism’ and/or ‘enemy within’, the EU level efforts have
gained momentum in order to combat terrorism inside the EU through expanding security
checks and controls over (certain group of) ‘migrants’. Since its first adoption in 2005, the
EU Strategy for Combating Radicalization and Recruitment to Terrorism under the
‘Prevent’ strand emphasized certain surveillance practices, including the needs (1) to
examine ways to impede terrorist recruitment, including over the Internet; and (2) to limit the activities of those possibility inciting terrorism in prisons and places of education and worship. For the first point, surveillance measures over internet have turned into the main reference point in order to counter the dissemination of terrorist propaganda and training tactics, such as bomb-making recipes. Especially the initiative ‘Check the Web’ led by Germany and launched in 2007 calls for strengthening of cooperation among member states’ law enforcement authorities to monitor internet activities that may be related to terrorist activities. Since then, this initiative ‘allows member states’ law enforcement authorities, on a voluntary basis, to submit and retrieve information on websites used by terrorists and extremists groups from a central database managed by Europol’ (Archick 2011: 43). This surveillance practices are not to target just (Muslim) migrants, nor to converge apparently with migration agenda. However, as one of the interviewee commented that it is still problematic that these security agencies, e.g. Europol, started to involve in migration and counter-terrorism practices at the same time; and this indirectly integrates migration issues into a security architecture emphasizing policing and defence (AE₂).

As regards to the second point, a more direct linkage between terrorism and migration is to be observed. More precisely, intensified surveillance over Muslim prisoners; training of imams and young Muslims has become one of the main strategies in order to combat ‘violent Islamist extremism’. Particularly, at the initiative of Spain, a ‘workstream’ was established in order to improve the training of imams with the aim of tackling the so-called hate-preachers. Most prominently, young Muslims came under the spotlight. The EC makes it explicit by stating that:

Radicalization takes place not only over the internet but also through direct recruitment.

The 2010 Europol Terrorism Situation and Trend report indicates that many terrorist or
extremist organizations are supported by active youth branches which are of particular concern to some Member States as potential vectors for radicalization and recruitment. This confirms that extremist ideologies still hold some attraction for receptive individuals. The TE-SAT report also confirms that a not insignificant number of radicalized people travel from the EU to conflict areas or are attending terrorist training camps and then returning to Europe. These are indications that the risks associated with youth being radicalized to commit terrorist offences remain considerable (Commission of the European Communities 2010: 4)

In line with this framing, a close monitoring of young Muslims and cooperation among security agencies of member states were urged to prevent ‘radicalization’ at the outset. More specifically, other ‘workstreams’ were established, including a Belgium-led initiative on community policy; a Dutch project on exploring the ways to work with local authorities for counter-radicalization purposes; and Danish initiative emphasizing de-radicalization. In her outstanding analysis, Fekete (2009:105) points to the securitization and criminalization of young Muslims under these counter-terrorism frameworks by stating that ‘The EU was extending its previous approach to combating terrorism, which focused on the threat posed by foreign nationals (“enemy aliens”), to young second- and third-generation Muslims (“enemy citizens”).’ For her, such a preventive policing strategy informing these surveillance practices ‘presumes guilt; it does not need proof of an actual material crime, just the suspicion that you may consider such a crime in the future. In short, authorities target [young Muslims] not for what they do or have done but based on predictions about what might do’ (ibid.). Other critical voices point to the problems relating to the term of ‘radicalization’ informing both these internal surveillance and integration practices, as will be illustrated below. In particular, Richards (2011: 143) asserts that there is a need for critical engagement with ‘the utility of “radicalization” as the focus of our response to the perceived danger of violent extremism.’ He details that:
Because its use logically implies a “counter-radicalization” response, it has helped to facilitate a strand of policy (under the “Prevent” rubric […]’ and argues that ‘the focus of counter-terrorism strategy should be on countering terrorism and not on the broader remit implied by wider conceptions of radicalization. This is certainly not to diminish the importance of contextual or “root cause” factors behind terrorism; but if it is terrorism that is to be understood and countered, then such factors should be viewed within a discourse of terrorism and counterterrorism, not one of radicalization and counter-radicalization (ibid.).

In a similar vein, Githens-Mazer and Lambert (2010) analyze how the discussions on ‘radicalization’ since the September 11 have been dominated by ‘conventional wisdom’ rather than systemic scientific and empirically based research. They contend that the ‘conventional wisdom’ advocated both at the EU and national levels offers only simplistic and straightforward responses by provoking culturalist explanations (e.g. so-called cultural differences between West and Muslims) to the ‘radicalization’. Relying on the results of their empirical case studies, they further remark that:

An emphasis on Islamic social, cultural and/or political difference in conventional wisdom betrays a normative obsession with an “existential threat” posed by Islam to the “liberal secular” and/or “Judeo-Christian West – a core belief that Islam causes insecurity […] Without clear definition of terms and ideas – of what we are trying to observe and understand, a “we know when we see it” approach to understanding radicalization becomes lackadaisical and promotes stereotyping. It justifies a policy making and media approach to radicalization that promotes emotional or politically driven feelings about who poses a security threat over a scientific, empirically derived form of knowledge and understanding about what this threat actually is or is not (ibid. 900-901).

These criticisms become more important especially when it comes to the linkage constructed between integration and radicalization, as the following pages will demonstrate.
3.5.3. Integration Practices

As foregrounded before, the Tampere Council of 1999 promoted a relatively liberal approach concerning the integration of migrants through emphasizing the principles of fair treatment and fight against racism and xenophobia. However, on the other hand, already by the late 1990s, - a period which was marked by the rise of far right and anti-immigrant parties, Europe started to witness significant paradigmatic changes in this field. By one by, member states have promoted conservative and culturalist integration approaches and drifted towards assimilationist stance. Failure of multiculturalism and ‘inability’ of certain group of migrants to integrate into European societies turned into main motifs surrounding integration debates in the so-called traditional migration countries, such as the Netherlands, Denmark, Germany, the UK, Austria and France. The Netherlands, which has been traditionally known as the most ‘liberal’ country in its approach towards migrants across Europe, took the lead and implemented mandatory integration programmes including language classes, social classes and career advice in 1998 (Michalowski 2005: 3). This step was highly criticized at that time as it was seen to induce assimilationist tendencies. This shift in integration practices became much clear in the post-September 11 political landscape, which was also worsened by other events, including murder of Dutch filmmaker van Gogh by a Muslim origin person, caricature crisis having erupted first in Denmark and spread to other European countries and riots of second or third generation ‘immigrants’ in France and in the UK. Parallel to these developments, the key European leaders – such as British Prime Minister David Cameron, former French President Nicolas Sarkozy, and German Chancellor Angela Merkel – started to publicly invoked the so-called failure of multiculturalism discourses (Archick 2011:7).

41 The notable ones among these parties, are Freedom Party of Austria, Danish People's Party Kjærsgaard, Norwegian Progress Party and German Republican Party. They, all, constructed a linkage between migration, ‘foreign’ criminality, welfare state and cultural identity in their populist discourses (see for a detailed analysis, Fekete 2009a: 3-4).
As certain scholars point out that, these developments should be read alongside the changing perceptions of ‘enemy’, which influenced the integration discourses and practices as well. Referring to the post-September 11 political discourses, Bigo (2005: 66) eloquently posits that:

The hostile foreigner was […] considered as part of the network of individuals infiltrated inside the [country] and who had ramifications all over the world […] The hostile foreigner was group of hostile fanatics, religious extremists, more or less irrational and ready to commit suicide […] The foreigner was suddenly considered as a small group, or was seen as an irrational, hostile individual, inside the country and almost impossible to be dealt with, using conventional methods.

Accordingly, whereby ‘enemy’ is to be defined with a reference to certain homogenized criteria, such as religion, ethnicity and country of origin, integration practices are inclined to target groups fitted into this specific profile in order to tame, normalize and pacify their ‘otherness’ or ‘dangerousness’ (ibid.). In this context, in the post-September era, principally, Muslim migrants were placed under scrutiny; their ‘willingness’ and ‘ability’ to integrate came to be questioned (PE₅; PE₃; NSOE₆; NSOE₁). Most notably, ‘enemy-within’ or ‘homegrown terrorism’ narratives began to dominate the agenda (SEG₁). As Fekete (2009a: 9) argues:

[…] following the September 2001 attacks on the World Trade Center and the Pentagon, public discourse began to identify, to a much greater extent than before, minority ethnic communities who happened to be Muslim, as ‘suspect’ communities whose loyalty and patriotism were constantly questioned.

The Madrid and London attacks fed into these framings of Muslims as ‘suspects.’ (see Pantazis and Pemberton 2009). As stated by one of the interviewee, concerns about ‘travelling terrorist’ have shifted into those about ‘terrorists within’ across the member states (SEG₁). These arguments are very well reflected in the current integration practices
of traditional migration countries, albeit varying degrees of severity. It is argued that integration practices are to be depicted also as a tool for the fight against terrorism, and ‘violent radicalization’\textsuperscript{42}, thereby constructing a direct linkage between terrorism, migration and integration. For Carrera (2006/2009), in the post-September 11 era, parameters of integration practices signify the ‘securitization of integration’ as well. To be more tangible, ‘the recasting of citizenship laws according to security considerations; the introduction of compulsory language and civics tests for citizenship applicants; codes of conduct for the trustees of mosques; a cultural code of conduct for Muslim girls and women, who, in some areas of Europe, are being forbidden to wear hijab in state schools and other state institutions’ (Fekete 2009a: 44), imposing ban on the construction of minarets, mandatory integration programmes, etc. have increasingly colonized integration practices across Europe. Particularly, culture and values of Europe/member states, which are depicted as homogenous, turned into the main reference points in these practices.

These paradigmatic changes were also manifested at the EU level. As discussed previously, the EU has had a very limited competence in the field of integration especially when it comes to the practices that shall influence ‘conditions conducive to the emergence of terrorism’ (Coolsaet 2011). To put it differently, there was no legal basis in the EU treaties for the Union to act on or direct integration practices (Archick 2011: 39). However, since the September 11 and most prominently following the Madrid and London attacks, important attention was given to integration issues in the light of terrorism and certain binding and non-binding texts were produced at the EU level. Besides, despite the emphasis on promoting socio-economic integration of migrants through common practices, the subsequent proposals and strategies internalized the culturalist framework linking integration with the knowledge of ‘culture’, ‘values’ and ‘history’ of host countries. To be

\textsuperscript{42} The term ‘violent radicalization’ was particularly pioneered by the Commission in its communication on EU counter-terrorism practices by autumn 2004.
more tangible, following the Hague Programme, which defined integration of migrants as one of the priority to be accomplished during its five-year time frame, the Council adopted an important Directive – the so-called Long Term Residence Directive (2003/109/EC) - and certain non-binding guidelines. Indeed, proposals for this Directive and relevant guidelines were on the agenda for a long time. Initially, the Commission based its proposals on the Tampere Council Conclusions, which prioritized ‘equal treatment, secure residence, family reunification, and access to employment and education’ as the cornerstones of integration policy (Groenendijk 2011: 5). However, as detailed below, their final version could not refrain from conservative tendencies of member states.

First, the Long Term Residence Directive clearly reflects securitarian tendencies. At the outset, Recital 8 of the preamble notes that ‘third-country nationals who wish to acquire and maintain long-term resident status should not constitute a threat to public policy or public security (see Council of the European Union 2003b). The notion of public policy may cover a conviction for committing a serious crime.’ Recital 21 further states that member state shall be able to check the person, who ‘intends to exercise his/her right of residence in its territory, in order to ensure that the person concerned does not constitute a threat to public policy, public security or public health’ (ibid.). Even though there is not an explicit reference to terrorism, it is argued that, these clauses should be interpreted in the light of international terrorism (PE₄; AE₁). Another important point is that, a clause referring to ‘integration conditions’ for acquiring long-term residence status was inserted into Article 5 in the face of pressure coming from a group of member states (Groenendijk 2007: 443; Böcker and Strik 2011: 170). During the negotiation process, it was, initially, agreed upon to adapt the term of ‘integration measures’. However, Germany, the Netherlands, and Austria lobbied for the replacement of the term ‘integration measures’ with ‘integration conditions’. They succeeded in this, and the final version of Article 5
states that ‘Member States may require third-country nationals to comply with integration conditions, in accordance with national law.’ Groenendijk contends that “measures” allow a Member State to require a long-term resident to attend a course [whereas] the term “integration conditions” covers more far-reaching obligations, such as passing a language test’ (ibid. 445). Even though this Article does not oblige member states to apply this clause, there is still a risk of providing a ground for them to implement more restrictive measures through referring to this Article; thereby justifying or masking their unfavorable policies (ibid. 446). Indeed, this was proved by the recent moves towards implementing mandatory integration programmes across the EU. Currently, in eleven member states, third-country nationals are required to attend integration programmes and pass language and knowledge-of-society tests in order to gain secure legal status and the rights attach to it (Böcker and Strik 2011: 157).43

These culturalist and exclusionary practices became also important guiding principles within the following initiatives. The JHA Council of 19 November 2004 adopted unanimously the ‘Common Basic Principles for Immigrant Integration Policy’ (CBPs) (see Council of the European Union 2004e). This could be conceived as a decisive step towards formulating a comprehensive and common framework to restructure national integration practices. However, in the Preamble of the Conclusions, the Council stressed the preservation of national competences in the development and implementation of integration practices. Therefore, the predominance of member states was maintained in this field. Indeed, the provisions of the CBPs also reflect the interests of member states. Even though CBPs referred to the importance of the role of education, employment, non-discriminatory institutional and legal framework as well as to the respect for cultural and religious rights of third-country nationals, the definition of integration and of entitlement

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43 These member states are: Austria, the Czech Republic, Denmark, Estonia, France, Germany, Greece, Latvia, Malta, the Netherlands and the UK.
of rights and obligations are problematic. More precisely, integration was defined as ‘a two-way process based on reciprocity of rights and obligations of third country nationals and host societies that foresee the immigrant full participation’ and as an ‘balance of rights and obligations’ (Commission of the European Communities 2003; emphasis added).

However, the first and second principles added that ‘integration implies respect for the basic values of the European Union’ (Council of the European Union 2004e; emphasis added). It was further noted that ‘The integration process involves adaption by immigrants, both men and women, who all have rights and responsibilities in relation to their new country of residence’ (ibid.; emphasis added). Here, Martiniello (2008) draws the attention to the wording and terminology of the text and contends that:

The terms “adaption”, “values” and “responsibilities” tend to develop a paternalist vision of integration. Interpretation of adaptation as assimilation is frequent, the definition of “responsibilities” does not have legal implications in comparison with “rights” and the determination of “European values” could be a point for discussion.

Despite the contentious nature and danger of this terminology, which could problematize integration of migrants and enforce a dialectical relationship of inclusion and exclusion, the Commission kept on structuring its proposals and communications in line with this stance. For example, it adopted a Communication, entitled, ‘A Common Agenda for Integration – Framework for the Integration of Third Country Nationals in the European Union’ in 2005 (Commission of the European Communities 2005a). Again, the above-mentioned principles were emphasized in a more detailed way. For instance, it was laid down that ‘integration implies for the basic values of the European Union’ and ‘civic orientation in introduction programmes and other activities for newly arrived third-country nationals with the view of ensuring that immigrants understand, respect and benefit from common European and national values’ was emphasized (ibid.). Furthermore, it was stated
that ‘Basic knowledge of the host society’s language, history, and institutions is indispensable to integration’, and the EC proposed, e.g. ‘organizing introduction programmes and activities for newly arrived third-country nationals to acquire basic knowledge about language, history, institutions, socioeconomic features, cultural life and fundamental values’ (ibid.).

These guidelines were integrated into the counter terrorism agenda in a more explicit way following the Madrid and London attacks. As mentioned already, as a response to the Madrid and London attacks, the extraordinary JHA Council and Actions Plans on Combating Terrorism put emphasis on the prevention of recruitment and radicalization and linked these goals with effective integration practices. More precisely, the European Counter Terrorism Strategy adopted in December 2005 defined the first objective as to ‘prevent people turning to terrorism by tackling the factors and roots causes which can lead to radicalization and recruitment, in Europe and internationally’ (Council of the European Union 2005a). In doing this, effective integration practices and promoting inter-cultural dialogue through empowering moderate voices were framed as the most decisive tools (ibid.). In a similar vein, again, the Commission Communication to the EP and the Council concerning Terrorist recruitment: addressing the factors contributing to violent radicalization (COM 2005/313), drew the attention to the so-called linkage between failure of integration and ‘violent radicalization’ by stating that:

In the majority of cases, third-country nationals have integrated well within the Member States of the EU. However, if integration fails it can provide fertile ground for violent radicalization to develop (Commission of the European Communities 2005b).

Under the heading of ‘Encouraging Integration, Inter-cultural Dialogue and Dialogue with Religions’, it attached great importance to the implementation of the CBPs and the previous guidelines in tackling these problems across the member states. The
crucial point, here, is that by directly framing integration measures as counter-terrorism tools, as Carrera (2006) points out, these proposals securitized the issue of integration as well. Besides, as discussed previously, the contentious term ‘radicalization’ became the main reference point.

Lastly, this restrictive, culturalist and securitarian tone on integration was furthered under the French Presidency in 2008. Sarkozy proposed to formulate and implement a comprehensive and compulsory EU integration programmes, including an integration contract during the negotiation process of the ‘European Pact on Immigration and Asylum’. The original draft of the Pact included a direct reference to an integration contract, which ‘was inspired by the Contrat d’accueil et d’intégration (CAI) and the Contrat d’accueil et d’intégration pour la famille (CAIF) currently provided in French immigration law’ (Carrera and Guild 2008: 5). Certain member states, especially Spain, firmly stood against this proposal and in the end, neither integration contract nor proposal for a compulsory integration programmes were included into the final version of the Pact. However, it is worth noting that the last version of the Pact still contains culturalist and exclusionary elements laid down by the previous EU documents. That is the Pact defined ‘learning language’ and ‘respect for the identities of the Member States and the European Union and for their fundamental values, such as human rights, freedom of opinion, democracy, tolerance, equality between men and women, and the compulsory schooling of children’ as the essential factors for integration (Council of the European Union 2008: 6).

All these discussions will be made more tangible in the national cases. However, before concluding, some points should be underlined. Outwardly, there seems to be no direct link between the language and/or integration courses and securitization; these practices are justified in the name of ensuring effective ‘integration’ of migrants into the labour market and society (Toğral 2011: 230). Similar arguments were put forward by
interviewees. They define language as the key for successful integration (NSOE₂; AG₃; AG₇). However, the wording of and the way to implement these practices need to be critically assessed. The mandatory character of these courses, the sanctions attached to these courses or tests, and most notably the emphasis on the knowledge of European/member states’ culture, values, and respect for the way of life, as a prerequisite of gaining secure legal status reflect securitarian and exclusionary tendencies. In this very specific context, these practices seem to act as a mechanism of migration control; rather than as a strategy of improving social inclusion of migrants. Furthermore, in general terms, these measures appear to highlight how integration practices are colonized by power relations and encapsulated within a hierarchical structure of subordination and domination. They tend to ‘othering’ migrants in negative terms; while at the same time, glorifying homogeneously defined ‘culture’ of host societies. This reflects, as at many times in history, the idea of the so-called supremacy of Europe, which ‘stands for universal values – let us rehearse them again; democracy, human rights and rule of law’ (Lentin 2008). This approach is very well reflected in the target groups of these integration practices across the EU. In almost all member states implementing these practices, the target group is consisting of nationals of Africa, Middle Eastern and Asia. On the other hand, the exempted groups involve the nationals of the US, Canada, Japan, New Zealand, Australia and EEA. As in case of visa practices, integration practices came to be blurred by the long-lasting division between ‘wanted’ and ‘unwanted’ migrants, whereby the former is supposed to be made up of rich and/or ‘culturally’ similar groups of people; whereas, the latter is to be constituted by poor and ‘culturally’ different (somehow inferior) groups. This approach was well confirmed by an interviewee, who stated that such kind of selective management is necessary since the targeted groups cannot be successfully integrated into European societies owing to their culture, level of education and religion (PE₅). In addition
to this rigid separation among certain group of migrants, because of the Community law and creation of European citizenship, nationals of member states are also not subject to the mandatory integration practices. In this setting, they are dealt with discourses and practices of ‘convergence avoiding the subordinate/dominant difference implicit in integration’ (Guild 2005b: 105). As Guild eloquently assesses:

The discourse of convergence is a voluntary one where there is a programme within which there is a natural movement. It does not contain the coercive idea of the movement of lesser valued towards more valuable norms…[On the other hand] the construction of mandatory integration programmes in some countries usually indicates a fear of diversity no matter how much the proponents seek to justify these projects as for the benefits of the ‘immigrants’. The right of immigrants, nationals of EU member states, not to integrate, but to remain distinct, is constructed as a benefit to the whole of the Union, evidence of diversity (ibid. 105-110).

In addition to this discriminatory implementation of integration practices, these integration guidelines were directly integrated into the security framework and reinterpreted in the light of counter-terrorism agenda. The tools proposed for furthering integration was framed also as tools of counter terrorism strategy in general. By extension, Muslim migrants and their possible ‘radicalization’ became the focus of the debate either implicitly and explicitly. This view was also expressed by a representative of an NGO involving in EU level forums and discussions conducted by the Commission with the following words:

Security issue has been structuring the integration debate and policies since the September 11. The concerns, which have not been expressed openly, centered on Muslim migrants. We want to make them ‘good’ and ‘safe’ citizens. This view partly explains the discriminatory character of the integration policies. They are seen as the ones, who have to be integrated, but this is not a case for EU nationals or nationals of developed world. When
EU citizens migrate to another EU country, she/he is not a migrant, he/she is a mobile citizen. If EU citizens move into Africa, they are still not migrants; they, let’s say, an expert, tourist, businessmen. The terminology used for them is totally different (NSOE₁).

3.5.4. Removal Practices

(Member) states have always had an exclusive authority in controlling its borders and excluding foreigners to ensure their national security, though they have been obliged to respect for human rights and the necessary safeguards in the course of removal processes (see Sunderland 2007). Yet, it should be also noted that national security exceptions to these legal protections have provided member states with a great deal of room for manoeuvre in enforcing return decisions without much interruption. In the post-September 11 period, various member states (e.g. France, Germany, the Netherlands) invoked forceful returns, especially of those religious leaders (imams) who were believed to incite hatred and fear – the so-called ‘hate preachers’ – on national security grounds (AE₁; NSOE₁; SEE₁; NSOG₁). Various sections of civil society have criticized these measures by stating that:

The expulsion of imams largely because they have engaged in speech deemed a national security threat raises concerns about the protection of freedom of expression and the bypassing of due process safeguards for those facing forced removal. Expulsions on national security grounds take place following administrative procedures. In opting to pursue a policy to expel a person by way of administrative decision—rather than prosecute them for speech offenses—the […] authorities in effect use immigration law to bypass the more stringent evidential and procedural guarantees in the criminal justice system (Sunderland 2007: 3; see also Fekete 2009a).

In other words, recourse to administrative and procedural law for security purposes serves to circumvent safeguards built into criminal law (Eckert 2005: 5; see also Cole...
2003: 14; Moeckli 2010). Besides, as it is argued, administrative law, i.e. migration law, is to be used as a ‘judicial weapon’ for expulsion purposes ‘where criminal law would not hold as those targeted cannot be convincingly accused of committing a crime recognized by criminal law’ (Schiffauer 2008 cited in Eckert 2005:8). More on these practices will be presented in national cases.

When it comes to the EU level developments, the EU has engaged more actively in the field of return policy in the post-September 11. Indeed, the post-September 11 political landscape served to intensify efforts in this field (Welch and Schuster 2005a). Member states strongly advocated a common EU framework in removing terrorist suspects (see Sunderland 2007). The following measures introduced at the EU level opened a window of opportunity for member states to implement their securitarian agenda concerning the removal of migrants. These can be listed as follows:

### 3.5.4.5. Expulsion of Long-Term Residents

The first important step in this field was taken as regards to the removal of long-term residents deemed to pose a security threat with the Long Term Residence Directive (2003/109/EC). This Directive stipulated that member states might expel a long-term resident ‘solely where he/she constitutes an actual and sufficiently serious threat to public policy or public security’ (see Art. 12 (1)). In deciding on these cases, member states should take into account the amount of time the person has been a resident, the person’s age, the consequences of deportation for the person and family members, and the person’s links with the country of residence or absence of links with the country of origin (Article 12 (3)). In this context, long-term residents’ judicial status came to be reinterpreted with a reference to ‘threat’ and by extension to ‘terrorism’ (PE₃).
3.5.4.6. New Exceptions to the Non-Refoulement Principle

As regards to asylum seekers, it is widely argued that the promising and humanitarian context created by the Tampere Summit, which called for the development of a common asylum policy in line with Geneva Convention, was laid aside in the aftermath of September 11 attacks (Levy 2005: 35; Boswell 2007). In a similar vein, interviewees stated that in the post-September era, ‘whole debate shifted into security concerns’ and the goals of Tampere, including harmonizing asylum policies in line with the genuine refugee regime, were replaced by more securitarian ones (NSOE₁; AS₁). These arguments have merit if one looks at the immediate responses following the September 11 attacks, whereby asylum was directly linked to terrorism. It was already mentioned that just after the attacks, the Commission issued a Working Document on December 5, 2001, titled as ‘The Relationship between Safeguarding Internal Security and Complying with International Protection Obligations and Instruments’. Despite the emphasis on a ‘balance between security and refugee protection regime’, this text proposed the application of the exclusion clauses provided by the Geneva Convention to those asylum seekers and refugees deemed to a security threat. More precisely, Article 1 (F) of the Geneva Convention establishes that the Convention does not apply

to any person concerning whom there are serious reasons for believing (a) that he has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to provide such crimes (b) he has committed a serious non-political crime outside the country of refuge prior to his admission to that country and (c) he has become guilty of acts contrary to the purposes and principles of the United Nations’ (Geneva Convention 1951).44

44 Same proposals were also reiterated by the UN Security Council Resolution of 28 September 2001, which established that states shall, in conformity with international law: take appropriate measures […], before granting refugee status, for the purpose of ensuring that the asylum seeker has not planned, facilitated or participated in the commission of terrorists attacks; ensure that refugee status is not abused by the
It should be noted that this exception clause concerns with asylum seekers, who entered the territory of the respective state and applied for protection, but who have not been recognized as refugees yet. Secondly, Article 33 of the Convention regulates the exceptions to the non-refoulement principle that are to be applied to those who have been already recognized as refugees. It establishes that:

1. No Contracting State shall expel or return ("refouler") a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.

2. The benefit of the present provision may not, however, be claimed by a refugee whom there are reasonable grounds for regarding as a danger to the security of the country in which he is, or who, having been convicted by a final judgement of a particularly serious crime, constitutes a danger to the community of that country.

These exclusion clauses were incorporated into the EU law with the Directive on Minimum Standards for the Qualification and Status of Third Country Nationals or Stateless Persons as Refugees or Persons Who Otherwise Need International Protection and the Content of the Protection Granted, better known as the Qualification Directive, on 29 April 2004. This directive was colonized by the EU’s quest to control ‘the movement of suspected terrorists’ (Schoenholtz and Hojaiban 2008: 8). The preamble of the Directive, at the outset, verifies this reasoning by stating that cases related to asylum seekers or refugees, who belong to or support international terrorism, are subject to the notion of national security and public order (Council of the European Union 2004f: Recital 28). This reference to national security is to grant considerable latitude to member states while

perpetrators, organizers or facilitators of terrorist acts, and that claims of political motivation are not recognized as grounds for refusing requests for the extradition of alleged terrorists (UN 2001: paragraphs 3(f) and (g)). This stance was inserted into the Common Position on Combating Terrorism of the Council of the EU under Article 16 and 17, which was released two weeks after the Commission presented its working documents (Council of the European Union 2001d).
deciding on the cases. Relying on the exclusions clauses provided by the Geneva Convention, the Directive allowed member states to circumvent the ‘non-refoulement’ principle on security grounds. First, Article 12 of the Directive (2) under the heading of ‘Expulsion’ sets out that:

A third country national or a stateless person is excluded from being a refugee where there are serious reasons for considering that:

(a) he or she has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes;

(b) he or she has committed a serious non-political crime outside the country of refuge prior to his or her admission as a refugee; which means the time of issuing a residence permit based on the granting of refugee status; particularly cruel actions, even if committed with an allegedly political objective, may be classified as serious non-political crimes;

(c) he or she has been guilty of acts contrary to the purposes and principles of the United Nations as set out in the Preamble and Articles 1 and 2 of the Charter of the United Nations.

Furthermore, the same Article added that persons who instigate, otherwise, finance, plan or incite terrorist acts are also excluded from international protection (Article 12 (3)).

Secondly, under the Article 14 (4) and (5) of the Directive, member states are allowed to ‘revoke, end or refuse to renew’ refugee status in cases where there are reasonable grounds for considering the person in question as a threat to the security of the member state, or, where he or she constitutes a threat to the community of the member states in general due to the having being convicted by a final judgment of a particular serious crime.45

45 These exclusion clauses were also applied to the subsidiary protection and they were broadened under the Directive. For example, in addition to the refugee exclusion grounds, under Article 17 (1) (d) of the Directive, a person is excluded from subsidiary protection if she or he ‘constitutes a danger to the community or to the security of the country in which he or she is’. More notably, Article 17 (3) of the Directive permits member states to exclude a person from subsidiary protection ‘if he or she prior to his or her admission to the Member State has committed one or more crimes, outside the scope of paragraph 1, which would be...
These exclusionary clauses are problematic given the fact that neither ‘terrorism’ nor ‘support of terrorism’ are precisely defined under international law as well as at the EU and national levels (see Schoenholtz and Hojaiban 2008; Saul 2006). Even though the Directive imprecisely defines terrorist as those involving in ‘acts contrary to the purpose of the United Nations’ (Recital 22), this reference is still contentious in the sense that it may pave the way for a very broad definition. It is likely to result in different, arbitrary, or improper interpretation of this clause, which in turn, may affect the rights of asylum seekers (NSOG₁). As indicated by one of the Commissioner in charge of this Directive, definition of the notion of terrorism and threats to national security was left to member states’ discretion (BE₁)⁴６. Within this context, various civil society organizations working on human rights and refugees expressed their resentments about the ‘automatic and non-restrictive application’ of these exclusion clauses (see UNHCR 2003/2009). In a similar vein, they argued that in the face of a lack of clear definition of terrorism, there is a risk of bringing wide variety of people under these exclusion clauses and thereby denying protection to them (Brouwer et al. 2003: 134) ‘before any considerations of the merits of a claim’ (Baldaccini, 2007: xvi). It is further stated that these clauses established ‘a legal framework where engaging in political opposition movement is potentially an act of terrorism and where any political refugee is at risk of being denied protection’ (Refugee Council of the UK 2006).

In line with these policy developments, it can be asserted that asylum issue has been directly associated with terrorism by this Directive. This kind of securitization can be conceived as almost novel, as asylum and terrorism were not linked each other in such a direct and explicit way before. Even though categorization of asylum seekers as bogus punishable by imprisonment, had they been committed in the Member State concerned, and if he or she left his or her country of origin solely in order to avoid sanctions resulting from these crimes’. She further stated that large of number of Afghans were excluded from refugee protection regime on national security grounds in line with this Directive in the Netherlands.
and/or bona fide, was inserted into the policy framework long before the September 11, this was not done in terms of terrorism. Before, it was argued that the asylum system was to be abused by ‘economic migrants’. However, in the post-September 11 period, bogus asylum seekers took, also, the form of potential terrorist who could threaten internal security of the EU. As the politicians during the interviews stated that today the discourse pointing to the ‘abuse’ of the asylum system by criminals and terrorists has gained more ground among all parties, including both Social and Christian Democrats (PE₃; PE₄; PG₁). In that sense, concerns regarding the abuse of asylum system by terrorists took their place alongside those relating to ‘economic migrants’.

Yet, this does not mean that all practices implemented in the post-September 11 signify this trend. The continuity remained intact – that is preventing ‘asylum shopping’ and deterring further applications. For example, introduction of the Dublin II Regulation (343/2003) of 18 February 2003 is a very good example demonstrating this continuity within the asylum regime at the EU level. It was not a direct response to terrorist attacks, nor associated asylum seeking with terrorism; but it has had important repercussions in the sense that it further facilitated the removal of asylum seekers under a securitarian framework. This Regulation, as a successor of the Dublin Convention, established the criteria to determine which member state is responsible for the examination of an asylum claim lodged in one of the member state (see Council of the European Union 2003c). Indeed, it follows almost the same mechanism set up by the Dublin Convention, though in a more detailed and systemic way. Main rationale is to prevent again the so-called ‘asylum shopping’ or the ‘refugees in orbit phenomenon’ through preventing a person from applying for asylum in more than one country (Filzwieser 2006:2). Accordingly, member states were allowed to reject examination of an asylum application and return the asylum.
seekers to another member states. The criteria in identifying the responsible state are as follows (Nicol 2007: 265-266):

- States where a family member has been recognized as a refugee (Article 4);
- State which has issued a valid residence permit or visa (Article 5);
- State whose borders for controlling entry into the territory of the Member States (except where a visa requirement is waived and a second Member State later also waives a visa requirement (Article 7);
- State in whose international zone the application is made (Article 7 (3);
- If no other Member State is responsible, the state where the application for asylum is lodged (Article 8).

Again, wide range of criticisms have been directed against this Regulation. One of them points to the incompatibility of these provisions with a genuine refugee protection regime, as they are likely to eliminate the ground for asylum applicant to choose freely the country where he/she would seek protection (Filzwieser 2006:2). Other denouncement concerns with the possible adverse impact of these provisions on certain member states. Namely, these criteria would put a disproportionate burden on those member states which are located at the external border of the EU, and therefore, which are the first entry points, such as Greece or Spain (Nicol 2007:267). Closely related to this, as ECRE (2009: 3) states that ‘based on the myth that protection standards are equivalent throughout the EU and the associated states, the Dublin system results in asylum seekers being transferred to states where their basic human rights are violated, access to protection is de facto denied or access to specific treatment for asylum seekers with special needs is non-existent.’

However, on the other hand, the EU, particularly, the Commission was much more prone to define these rules as mere procedural devices, with technical natures. It was stated during an interview with a Commissioner that these rules make sure the system works in the face of increasing number of asylum applications (BE₁). However, this system is likely
to be based on a securitarian approach curbing the number of asylum seekers and keeping them away from the European territory.

3.5.4.7. Return Directive

Another important Directive is the Return Directive 2008/115 agreed between the EP and the Council on 16 December 2008, which is laying ‘Common Standards and Procedures in Member States for Returning Illegally Staying Third Country Nationals’. This Directive is the first text on internal security agreed upon by both the Council and the EP under the co-decision procedure (Servent 2010). During its preparation stage and after its adoption, it became subject to harsh criticisms of academics, human rights organizations, left-wing politicians and pro-immigrant groups; and even it has been called the ‘shameful Directive’ (see Baldacinni 2009). The most heated debate centered on the prolonged pre-removal detention and a ban on re-entering the EU (ibid.). As regard to the former, the Directive allowed member states to detain irregular immigrants and rejected asylum seekers up to six months for the purpose of removal. And more importantly, this period can be extended by a further 12 months in certain cases, namely if the removal cannot be realized owing to a) ‘a lack of cooperation by the third country national concerned, or b) delays in obtaining necessary documentation from third countries’ (European Parliament and the Council of the European Union 2008b: Article 15 (5) and (6)).

Concerning the length of the entry ban, it was stated that this shall be decided through taking into account ‘all relevant circumstances of the individual case’ and the period shall not exceed five years. However, it was further added that it may be longer than five years, if the person in question ‘represents a serious threat to public policy, public security or national security’ (ibid. Article 11 (2)). In addition to these vague terms, such as
public policy or security, which can be interpreted differently and widely, the power of member states in determining the final decision was also preserved.

Critics argue that the Directive disregards the basic rights and dignity of migrants especially given the long-detention period and application of re-entry ban. Most importantly, it tends to criminalize and securitize migration further due to the ‘intersection of criminal sanctions and immigration controls’ – that is clearly the case in this Directive (Guild 2010). Ten independent human rights experts of the Special Procedures of the United Nations Human Rights Council, contend that ‘irregular immigrants are not criminals. As a rule they should not be subject to detention at all. Member States are obliged to explore the availability of alternatives to detention and detention must be for the shortest period of time’ (ibid.). Furthermore, because of its approval under co-decision procedure, the EP, also, has attracted harsh criticisms of various pro-immigrant groups. As remarked by Servent (2009: 2), ‘given that the EP had until then portrayed itself as a clear advocate of human rights and civil liberties, such a restrictive outcome was seen as a major U-turn in the position of the Parliament and especially by its committee on civil liberties and justice and home affairs (LIBE).’ However, as she further points out that, the EP is not a unified body of which members are acting in line with same interests and opinions (ibid.). Rather as the interviews demonstrated that, MEPs were polarized among themselves and have divergence opinions. For example, although one of the interviewee belonging to the left-wing group expressed his resentments against this directive; the interviewees from right-wing and liberal groups were in favour of the directive. Hence, the balance of power within the EP was to be of utmost importance in determining the end-result.

For some of the interviews, the clauses of the Return Directive regarding the expulsion of irregular migrants as well as rejected asylum seekers on security grounds, are
closely linked to the post-September political climate in which security concerns prevailed over human rights issues and restrictive practices have been easily justified and implemented (PE₄). In a similar vein, they also argued that these clauses with their vague and indeterminate wording providing member states with a great deal of flexibility in deciding removal cases were stipulated by the post-September security concerns (SEG₁; NSOE₅). However, as there is no direct reference to terrorism, but public policy and security concerns in general are mentioned, the Directive cannot be explicitly defined as a tool in the counter-terrorism strategy. Instead, ‘fight against irregular immigration’ was likely to remain as the main rationale, though this approach also contributed to the securitization of migration. This is also well-affirmed by other interviewees arguing that this Directive only codified the already-existing security framework pertaining to member states at the EU level; therefore, the September 11 and the following attacks acted just as a catalyst to introduce these clauses; they are not to main driving force (AE₁; AE₂).

3.6. Conclusion

The analysis demonstrates that the post-September 11 setting demonstrates both continuity and change with respect to the securitization of migration. Here, continuity implies that, the purposes of ‘fighting’ against irregular immigration and cracking down on asylum seekers continued to be the reasoning for the securitarian and restrictive practices. Besides, ensuring internal security has been still addressed through a general reference to public policy and security. On the other hand, the change has occurred in the sense that the use of migration practices for counter terrorism purposes has received further impetus. In certain fields, there emerged a direct and explicit convergence between migration and counter-terrorism agendas and tools. Therefore, migration practices ‘now not only [serve]
as an additional weapon in the anti-terrorism arsenal but [have been] almost completely subordinated to counter-terrorism policy’ (Moeckli 2010: 475).

To be more specific, the external securitization has been much more intensified with a reference to terrorism since the September 11 attacks. For example, in the field of practices governing the entry/admission of migrants, short-term visa, and family reunification have been reshaped by terrorism-related concerns. The only exception is seen in the practices targeting labour immigration. Here, a more selective approach marked by economic concerns and aging population characterizes the securitization process. In this setting, rather than securitization in relation to terrorism, the long-lasting division between irregular immigration/regular immigration and unwanted/wanted immigration has been preserved. Similarly, entry barriers for asylum seekers in the form of visa impositions remained intact. In other fields, including technological practices (e.g. inclusion of biometrics, expansion of the old databases and introduction of new ones, providing access to these databases for law enforcement bodies) and militarization of border controls (e.g. Frontex) again demonstrate clear securitization processes. Yet, whereas the developments in the field of technological practices have securitized migration explicitly in relation to terrorism, the militarization of border controls exemplified by the establishment of the Frontex has illuminated a different picture. Namely, the Frontex, which was initially introduced with a reference to terrorism, turned into a tool in the ‘fight against irregular immigration’ after its adoption.

On the other hand, despite the enduring power of member states over practices relating to internal sphere, the EU has taken certain steps in this realm in the light of terrorism. The most decisive and direct securitization is observed in the Eurodac, which was framed also as a tool for counter-terrorism purposes. In a similar vein, the internal securitization prompted by the EU (though under the influence of member states)
manifested itself in the strengthening of internal surveillance across member states (e.g. over young Muslims, and religious leaders), in exclusionary and culturalist integration strategies (e.g. countering ‘radicalization’ and ‘homegrown terrorism’ through ‘integration measures’); and lastly in facilitating removals on security grounds. Yet, as the analysis illustrates that terrorism cannot be counted as the sole determinant informing the post-September 11 practices in the sphere of internal securitization as well. Long lasting reference to the ‘culturalist’ approach, resultant selectivity, and exclusion of ‘unwanted’ migrants before they have gained a ‘secure’ judicial status, all of which have already permeated to member states, have directed the securitization process at the EU level. Indeed, it is right to assert that the EU has been likely to follow the securitarian agenda of the member states under the initiatives it has proposed for harmonization purposes.

To conclude, especially as regard to would-be migrants, the EU has continuously securitized its practices in parallel to its harmonization process. Member states became obliged to follow practices agreed upon at the EU level and therefore, to replicate the similar securitization process in their domestic spheres. On the other hand, even though the EU started to have a more active role in the field of internal securitization, its influence has been still limited in the face of enduring power of member states over the practices targeting ‘migrants’ inside their territories. Hence, the internal securitization developed at the EU level is limited in its scope. The emerging binding and non-binding decisions came into being under the heavy pressure of member states.

The next chapters engaging in comparative analysis are of utmost importance, as they will show how the securitization of migration in the light of terrorism has been

47 For example one of the interviewee from Sweden stated that: The problem is at the EU level is that you have to have everything on the same level. And harmonization is one of the big problems. For example, Sweden could be traditionally defined as a soft country with its higher standards of human rights. However, Sweden is not powerful enough to make changes in policies at the EU level. So that means we are forced to be tough on migration, because of the securitization process; because we have to accept the norms of the EU. Under this pressure, we have taken many steps, including repressive surveillance measures and sentences, and exchanging sensitive information through Europol and SIS (AE₁).
developed and evolved in domestic realms. Especially, it will explore how the
securitization processes among member states differ or converge in a European context.
This provides the necessary stance against the straightforward and linear formulation of
securitization process. As one of the interviewee suggested such a comparative analysis
between different cases help deconstruct different structures from which securitization
process has emerged (AG₃).
4. **Securitization of Migration in Germany**

The previous chapter unpacks the securitization process at the EU level with a special focus on the post-September 11 period. As this analysis demonstrates, the EU developed practices securitizing migration both before and after the attacks in the context of European integration process. Particularly, even though most of the securitarian practices were already in making long before the September 11, association of migration with terrorism and convergence of migration-related practices with that of the counter-terrorism triggered this securitization process in a more broadened way. In this context, member states, which are obliged to adopt decisions taken at the EU level, especially those defined as legally binding, are to replicate the similar process in their domestic spheres. For example, visa policies, technological practices in the sphere of external securitization and asylum-related practices, are among those in which the most decisive impact of the Europeanization was witnessed. On the other hand, given the enduring role of member states in formulating their own practices in accordance with their specific historical, political, and socio-economic developments, it is still necessary to take a closer look at how the securitization of migration has operationalized in member states. This necessity is relevant especially when it comes to the internal sphere whereby member states have still retained higher level of discretion. Germany also adopted most of the EU legislation and guidelines analyzed in the EU chapter; thereby having automatically integrated the securitization practices informing the EU level approach into its domestic politics.\(^{48}\) On the other hand, as the proceeding analysis will demonstrate, it has also readapted the existing legislation and introduced new ones in the post-September 11

\[^{48}\text{These can be summarized as follows: Dublin II Regulation, Eurodac Regulation, Asylum Qualification Directive, Family Reunification Directive and Long-term Residence Directive. The only exception that Germany has not enacted up to now is the Return Directive.}\]
period. Therefore, it is expected to depict differences as regards to the securitization process in domestic politics of Germany.

Against this backdrop, this chapter aims at exploring the securitization process in Germany with a special focus on the post-September 11. In doing this, it will also take into account the interaction between the EU and member states. As in case of the EU level analysis, in order to provide a contextual as well as conceptual framework and delineate the continuity and change in migration-related practices, first, a historical overview will be provided. Later, the remainder of the chapter will take a closer look at the post-September 11 period. More precisely, after giving a background analysis on the pre-existing political conjecture at the time of the attacks happened, the securitization of migration will be unpacked in accordance with the chosen practices under two headings: 1) external securitization and 2) internal securitization.

4.1. Historical Overview: The Pre-September 11 period

Until the late of 19th century, Germany was characterized as a country of emigration, as millions of German people emigrated, especially to the US, in search for a better life opportunities. Since then, a partial shift in migratory movements happened. Huge numbers of Polish migrants started to move into Germany in order to fulfill labour shortages in the mining industry (Özcan 2004). This was followed by a forced migration of millions of people from the territories occupied by Nazi forces during the World War II. Labour force of these people was used by Nazis in the heavy manufacturing industry. However, the radical change in German migration history started following the end of World War II. As will be detailed below, the source of this change is twofold. One was the rapidly growing numbers of asylum seekers and refugees after 1945 and the other is the
recruitment of foreign workers. The following pages will explore these post-World War II developments, all of which are marked by important turning points concerning the practices and framing of migration in German politics.

4.1.1. Article 16 of the Basic Law and Liberal Asylum Regime

The initial phase of the post-World War II (West) German migration history was shaped by increasing number of asylum seekers and refugees. Between 1945 and 1949, around 9 million of refugees and expellees, the so-called ‘ethnic German/ethnic asylum seekers’ (Aussiedler) from Poland, Czechoslovakia, Hungary and ex-Yugoslavia, were admitted to Germany (Marshall 2000; see also BMI 2008). This liberal approach towards asylum seekers can be best explained by the legacy of Nazi regime (AG₃). This view is clearly affirmed by the BMI:

The great significance of the right of asylum has in Germany is above all due to the painful experience during the Nazi regime, when many Germans faced persecution at home and were dependent on protection offered by other countries. This led to a strong desire for a free and democratic Germany to assume special responsibility for those seeking protection and refugee from political persecution (BMI 2008: 136).

Within this specific context, right to seek asylum became one of the centerpieces of the German constitution. This right became applicable to all people, who were subject to political persecution, irrespective of his/her nationality, gender, religion, ethnicity or relationship to Germany. It was enshrined in the Article 16 of the Basic Law (Grundgesetz), which provided that ‘[p]ersons persecuted on political grounds shall enjoy the right of asylum’ (Basic Law: Article 16). However, in the meantime, special rules were also created for the so-called ethnic asylum seekers, namely those coming from the ex-

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49 In the course of analysis, covering the period until the reunification of Germany, the terms German or Germany refer to West Germany, if not specified otherwise.
Soviet Union. Accordingly, ethnic asylum seekers were granted a privilege position and dealt with more liberal practices concerning the entry or naturalization issues. For example, their admission automatically resulted in acquiring permanent residence permits and eventually citizenship. Indeed, this approach found its legal basis in the 1913 Citizenship Law (Staatsangehörigkeitsgesetz), which ‘based on citizenship on blood lineage (jus sanguinis), rather than on the membership of a state territorial community (jus soli)’ (Hogwood 2004: 5). This was reflected in the Article 116 of the Basic Law, which defined ‘who is German’ with the following provisions:

(1) Unless otherwise provided by law, a German within the meaning of this Basic Law is a person who possesses German citizenship who has been admitted to the territory of the German Reich, as it existed on December 31, 1937, as a refugee or expellee of German stock or as the spouse or descendant of such person.

(2) Former German citizens who between 30 January 1933 and 8 May 1945 were deprived of their citizenship on political, racial or religious grounds, and their descendants, shall on application have their citizenship restored. They shall be deemed never to have been deprived of their citizenship if they have established their domicile in Germany after 8 May 1945 and have not expressed a contrary intention (Basic Law: Article 116).

According to Greenfeld (1993: 286), this cultural, ethnic, and linguistic framing of nationality is related to the Germany’s nation-building process, which developed without binding to a specific territory. In the late 19th century, namely even after the establishment of German nation-state in 1871, significant number of Germans were still living outside the German territory. Hence, culture, ethnicity, and language became the main determining factors of the citizenship tradition, or so to say, for who is German and who is not, by extension who is excluded from and who is included into the political community (Münz and Ohliger 1997). In this specific context, the number of ethnic asylum seekers increased significantly in the aftermath of the World War II. Besides, entry of non-ethnic asylum
seekers gained also momentum due to the liberal, open asylum regime of Germany in the following years.

4.1.2. ‘Liberal’ Labour Immigration Practices between 1955-1973

It is undeniably right to say that introduction of the guest worker system marked the beginning of large-scale transformations in German migration history. In the beginning of that phase, labour immigration was framed through economically defined cost/benefit calculations. In effect, introduction of this system should be read alongside the immigration of East Germans (Übersiedler), to the West Germany. During the period between 1949 and 1961, due to the political and economic reasons, more than 3.8 million East Germans moved to the West Germany and only 393,000 immigrated from West to East (Münz and Ulrich 1997: 73). This type of immigration was welcomed by the West Germany, as it filled labour shortages in West Germany’s expanding economy (in the course of the so-called economic miracle) (Özcan 2004). However, on the one hand this immigration movement was still insufficient to meet domestic labour market demands; and on the other hand, it could not be sustained for a long time due to the construction of the Berlin Wall in 1961.\(^5^0\) Hence, Germany began to recruit foreign workers under the so-called guest worker system starting from the late 1950 through bilateral agreements. These agreements were signed with the following countries: Italy (1955), Spain and Greece (1960), Turkey (1961), Morocco (1963), Portugal (1964), Tunisia (1965) and Yugoslavia (1968). In the post-World War II period, other European countries, such as France, the Netherlands, Austria and the UK, started to recruit foreign workers either through similar bilateral agreements or from their ex-colonies in the face of labour shortages in their

\(^5^0\) During the years between 1950 and 1960, the number of East German immigrants in West Germany did not exceed 329,000 (Münz and Ulrich 1997: 78) – that was not enough to meet market demand. On the other hand, following the initiation of guest worker system, the numbers of foreign workers rose substantially and reached already to 2.6 million in 1973 (ibid.).
expanding economies. In case of Germany, this guest worker system was initially regulated by government agencies, in cooperation with employers’ organizations and trade unions. During that time, namely when the recruitment process began, the Foreigners Police Degree of 1938 (Ausländerpolizeiverordnung), which derived from the Nazi period, was still effective (Joppke 1999: 66). Raethzel (1999: 32) states that this degree allowed foreigners to live in the country as long as they showed themselves “worthy of hospitality”. This vague formulation did at least enable foreign workers to exercise some influence on their residence in Germany by being “worth of it”.

This legislative framework was supplemented by the Central Register on Aliens (Ausländerzentralregister: AZR) in 1953. Its creation was justified by ‘the need for increased surveillance of foreigners’ (Weichert 1995). In 1967, the database turned into an automated data processing system and came to include considerable amount of information on all foreigners entering Germany (Topal 2011: 815). Most profoundly, the following authorities were given access to it: Germany’s foreign representations, the Federal Border Police (Bundesgrenzschutz: BGS), the Federal Office for the Recognition of the Refugees (Bundesamt für die Anerkennung ausländischer Flüchtlinge: BAFI), the Federal Office of Criminal Investigation (Bundeskriminalamt: BKA), the public prosecutors, the authorities in charge of citizenship applications, the agencies for displaced ethnic Germans, and Federal Office of Constitution Protection (Bundesamt für Verfassungsschutz: BfV). In this context, long before the establishment of similar databases at the EU level, Germany had already prepared the ground for the technologization of security and started to administer the issue of migration under a securitarian institutional framework.

In the following years, this legislative and institutional framework was slightly readapted despite the increasing number of guest workers (see Schneider 2009). The Foreigners Police Degree of 1938 was replaced by the 1965 Foreigners Law
(Ausländergesetz). As in case of the previous law, the sole focus of this law was on ‘securing public safety and order’ (ibid. 14). It did not lay down comprehensive measures; it just focused on entry, work, short-term residence, deportation as well as on very limited number of rights (Ansay 1991: 834-840). Furthermore, there was no reference to the issue of integration in the course of this law. Indeed, it was argued that the aim was to isolate guest workers from the ‘host’ society through confining them to special hostels, factory dormitories located near to their workplaces and far from the city centers (PG₃). As one of the interviewee mentioned, this approach was mainly related to the fact that guest worker system aimed at stimulating temporary immigration in order to overcome labour shortages, which was also seen as a temporary problem (AG₃). To be more precise, it was expected that these workers would have returned to their home after expiration of their work permits, which were limited mostly to one or two years under the rotation principle. By this way, Germany tried not only preventing settlement of these workers but also keeping the economy open to ‘largest possible number of workers from the sending countries’ (Özcan 2004; Klusmeyer and Papademetriou 2009: 97). In line with these purposes, focus of the these initial years was more on controlling the entry and exist of foreign workers and there was no ‘elaborate legal-political framework for dealing with the presence of foreigners other than of temporary nature until the passing of a new Foreigners Law in 1990’ (Walthelm 2005: 16). Most importantly, this political framework was driven by the long-lasting premise that German was not a ‘country of immigration’ and never would be one (Davy 2007: 187).

However, as opposed to this rationale and expectations, these migrant workers did not leave Germany, and even the numbers grew significantly due to the family unification. Especially, hundreds of Turkish workers came to Germany and brought their families.⁵¹

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⁵¹ By 1968, Turkish citizens made up 10.7 % of the foreign population in Germany (BMI 2011: 15).
They relatively secured their legal status with short-term resident permits, as well as were entitled to certain social benefits; hence, more or less they started to stabilize their place in Germany in the following years. Another decisive factor, which contributed to the settlement of these guest workers, is the pressure coming from employers. As these workers were already accustomed to working settings, gained necessary skills and trainings, it was believed that recruitment of the fresh ones would have caused an additional cost for employers (Webber 1991: 13).

Yet, in response to economic crisis of 1970s, like other European countries, Germany adopted recruitment ban (Anwerbestopp) on 23 November 1973. Hence, 1970s was marked by the end of open labour migration policies in all over ‘traditional’ migration countries. Restrictive migration regimes came to dominate the agenda. Main driving forces behind this shift were to preserve the domestic workers and their socio-economic rights in the face of cheap migrant workers and rising unemployment (Blotevogel et al. 1993: 88).

From that time onwards, migration in general and labour immigration in particular started to be problematized both in political and public debates (PG₁; AG₁; NSOE₂).

4.1.3. Rise of Refugees and Family Class Migrants

As noted above, despite the recruitment ban, immigration into Germany continued to grow due to the family reunification⁵² and asylum seeking, since both are under the protection of the Basic Law and thereby remaining as the only legal channels to enter Germany. When it comes to the late 1970s, almost 4.5 million migrants were living in Germany (Auslaenderbeauftragte 2001). Despite the increasing numbers and ‘visibility’ of foreigners, which gradually transformed Germany into a migration country, shortsighted, restrictive and control oriented practices under the official paradigm of ‘Germany is not a country of immigration’ continued to remain intact. However, this official ignorance did

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⁵² The right to family reunification is under the protection of Article 6 of the Basic Law.
not prevent the rising public and political concerns on the issue of migration. Migration increasingly started to provoke heated political discussions. More precisely, it was placed under a security framework through associating it with certain ‘problems’, ‘menaces’ especially in relation to societal security considerations. It began to be framed as a source of unease over many issues, ranging from welfare state, belonging, to cultural identity. For example, following the economic crisis of 1970s, abrasive rhetoric about the cost of guest workers and their families on German school system gained momentum (Kluszmeier and Papademetrious 2009: 97). Furthermore, ‘integration problem’ of certain migrants entered into the political agenda starting from the late 1970s. Christian Democrats\textsuperscript{53} took the lead in this process. Firstly, they called for restrictive practices concerning family reunification; they proposed that ‘family reunification should happen, not in Germany, but in the… country of origin.’ (Carle 2007: 7). In the course of parliamentary discussions, they pointed to the ‘dangers’ of multinational state and the so-called inability of ‘some’ migrants to integrate into the German society (ibid.). More specifically, Alfred Dreggner, representative of the CDU, had already made today’s well-known distinction between ‘good’/‘wanted’ and ‘bad’/‘unwanted’ migrants. The first group, unsurprisingly, referred to those foreigners speaking German and belonging to the European countries and the second group to Turks, Asians and Arabs. He argued that the second group was difficult to assimilate and ‘to demand the return of foreigners is not immoral’ (cited in Joppke 1999: 81). These argumentations and proposed practices clearly demonstrate how (certain group of) migrants were transfigured as problems for the so-called cultural and national identity that were reified as ‘homogenous’ entities.

In this troubled context, one of the initiatives, which is worth mentioning, is the so-called 1977 Guidelines adopted following a compromise reached between the SPD and the

\textsuperscript{53} In this research, the term ‘Christian Democrats’ refer to both CDU and its so-called sister party, Christian Social Union of Bavaria (Christlich-Soziale Union in Bayern: CSU), if not specified otherwise.
Christian Democrats. It should be noted that these guidelines were ‘technically non-enforceable instructions to the States (Laender)\textsuperscript{54} (Hansen and Köhler 2005: 635). Mainly the following guidelines were set up:

- Foreigners ought to return their home countries after a certain period of time;
- The ban of recruitment of need to be maintained;
- The readiness and capacity to return should be strengthened;
- Coercive measures should be avoided;
- The integration of foreign employees and their families living in Germany need to be promoted;
- Their social and legal status needs to be protected;
- Stronger efforts should be made to improve the situation of the second generation (Green 2005)

Even though these guidelines put emphasis on the return of ‘foreigners’, they also introduced the notion of ‘temporary integration’ for the first time. Moreover, on the one hand, they provided a room for non-ethnic foreigners to acquire German citizenship; on the other hand, crucial obstacles were set in front of this acquisition (see Carle 2007: 151). For example, minimum 10 years’ residence without interruption and the renouncement of existing citizenship were established as the conditions for naturalization. Concerning the latter condition, during the parliamentary discussions, it was stated that ‘dual or multiple nationality is regarded both domestically and internationally, as an evil that should be

\textsuperscript{54} Under German federal system, ‘the Basic Law institutes a somewhat intersecting system dividing up law making authority between the Laender and the Federation’ (Schneider 2009: 12). In this context, most of the migration-related matters, including citizenship, the freedom of movement, immigration, emigration, refugees, expellees, extradition passports, residency registration, and identity cards are regulated at the federal level. Hence, ‘most legislation in practice is federal’ (Klomsreyer and Papademtriou 2009: 12). However, the States have also primary responsibility such as in the administration of justice and police issues. Besides, the administrative enforcement of Federal legislation lies with the States. Another point that reveals the power of the States is that ‘they exercise comprehensive participation rights and veto positions regarding legislation at the national level. More precisely, States governments are represented in the Bundesrat (upper chamber; or second legislative chamber), which provides them with representation of their particular interest. For any legislation endorsed by the Bundestag (Lower Chamber) that affects the States’ competences and for all constitutional amendments, the approval of Bundestag is necessary (ibid.).
avoided or eliminated if possible in the interest of states as well as in the interest of the affected citizen’ (Hansen and Köhler 2005: 639). Section 2 and 3 of the Guidelines explained the rationale behind these obstacles by stating that:

Germany is not a country of immigration; it does not strive to increase the number of German citizens by way of naturalization…The granting of German citizenship can only be considered if a public interest in the naturalization exists…the personal desires and economic interest of the applicants cannot be decisive (Koopmans 1999: 630; see also Hailbronner and Renner 1991).

It was further noted that even if naturalization of a foreigner was conceived in the public interest of Germany, the applicant in question must have shown a ‘voluntary and lasting orientation toward Germany determined by the applicant’s entire attitude toward the German culture’ (Green 2004:15). This orientation implied that applicants were required to have a basic understanding of liberal-democratic norms of Germany and accept to integrate into everyday life of Germany (Hailbronner and Renner 1991: 626-7).

Following these guidelines, a commission was established which was led by the leading Social Democrat Heinz Kühn, in 1978. The commission came up with the famous Kühn-Memorandum in 1979. This memorandum, indeed, represents an important break in the German post-war migration politics, as it, for the first time, underlined the need for a more comprehensive approach regarding the integration issue and privileged social considerations over the economic ones. It dealt with various issues, ranging from education, job training programs, residence entitlement, naturalization, political rights to the social care of migrants. In addition, it called for more sophisticated attempts in order to encourage integration of children and young people, secure their residence status, make the

55 As the implementation of these guidelines lies with Laender, there emerged differential position with regard to the naturalization, such as it is easier to acquire citizenship in Berlin than Munich (Hansen and Köhler 2005: 636).
naturalization by birth possible for immigrant children, as well as grant the right to attend local elections. However, the coalition government (consisting of the SPD and the Free Democrats (Freie Demokratische Partei: FDP) did not reach an agreement on the proposal and came up with a more restrictive one, which retained the basic insights of the older practices- e.g. the denial of being country of migration and resultant control oriented and shortsighted approaches. The main principles put forward by the coalition government were as follows (Raethzel 1990: 36):

- To prevent further immigration
- To encourage voluntary repatriation
- To better the economic and social integration of those who had lived in Federal Republic of Germany for many years
- To make the right of residence more precise

In the aftermath of this failed attempt to improve the status of migrants (guest workers and their families), the situation became worse in the face of rising distress directed against migrants (AG₁). The rhetoric of ‘foreigners taking over’ (Überfremdung) backed by the Christian Democrats during the year of 1982 before the general election, entered the political discussions. Meanwhile, the Christian Democrats played the ‘foreigner card’ intensively. During the election campaigns, issue of migration was extensively addressed under a rampant populism (Carle 2007: 8). For instance, Helmut Kohl committed to cut down the number of migrants in Germany by one million. Parallel to the rising popularity of the Christian Democrats in the political arena, the support to the Social Democrats begun to decline in the early 1980s in the face of worsening economic conditions, rising unemployment, repressive anti-terror laws adopted by the Social Democrats as well as their military policy, which resulted in the establishment of NATO missiles in West Germany (Raethzel 1990: 37). In such a setting, the Social Democrats were defeated and the
CDU/CSU-FDP led coalition took the office under Helmut Kohl in 1983. And after he came to power, Helmut Kohl took the lead of a new law, which offered financial incentives, the so-called premium for return (Rückkehrpraemie) to those foreigners in exchange of their return to their home countries on December 1, 1983. The financial incentives covered 10,500 DM plus state pension funds. However, this law did not bring the intended effects and it was abolished in 1985.

Before the reunification, Germany witnessed another legislative attempt. Again, under Kohl government, Friedrich Zimmermann, as Minister of Interior, came up with a draft for the reform of existing regulations on migration in April 1988. This draft was first leaked to the Arbeiterwohlfahrt social welfare organization and later made public by Der Spiegel (Green 2004: 60; see also Der Spiegel 4 April and 18 April 1988). In the preamble of the draft, it was stated that

The self-understanding of the Federal Republic of Germany as a German is at stake. The Federal Republic of Germany would develop into a multinational and multicultural society, which would be permanently plagued by minority problems. The national interest commands us to stop such a development in its very beginning (cited in Joppke 1996: 471).

Following Huysmans (2000/2006), this exemplifies well the securitization of migration in terms of a threat to cultural identity. However, this draft attracted harsh criticisms from opposition parties, NGOs, churches and unions (Bade 1994: 62). In the face of these intense discussions, Kohl assigned Wolfgang Schaeuble to the position of Interior Minister in 1989 (Green 2004: 64). This time, even though Schaeuble pushed also forward restrictive and securitarian practices, he took the issue more carefully; for instance, he did not put the return policies on the agenda as well as he avoided invoking the rhetoric of ‘Germany is not a country of immigration’ (see Carle 2007). In the end, he made some concessions or so to say ‘improvements’ in response to rising criticisms. Finally, the new
Foreigners Law was passed in Parliament on April 26 1990.57 The main improvements were seen in the area of granting secure legal status, and the naturalization of foreigner. Concerning the first one, the law introduced the right to have an indefinite permit to stay (unbefristete Aufenthaltserlaubnis) and an indefinite permit to reside (Aufenthaltsberechtigung) (Foreigners Law 1990: Sections 24 - 27). Regarding the latter, the naturalization process was facilitated and simplified for those who lived longer than 15 years in Germany and for immigrants aged between 16 and 23 having longer than 8 years and 6 years attendance to a German school (Green 2004: 79). However, ‘granting of citizenship’ was still at the discretion of responsible authorities (Hansen and Köhler 2005: 636). Besides, there was no reference to the acquisition of citizenship by birth, which could have covered the growing number of migrants’ children. Last but not the least, prohibition on dual nationality remained intact.

Following this, another significant development is the introduction of a law to provide a legal basis for the AZR in 1994. The law established the creation of a particular ‘visa register’ system linked to the AZR. From that time onwards, this system registered all data of visa applicants and, again, main security agencies, including the BGS, and the BKA, were given access to it (Weichert 1995).

When one looks at practices and approaches surrounding asylum issue, the situation was also getting contentious; namely deep rooted, benevolent attitudes and practices were likely to be overturned. For example, by the end of 1981, 1.1 million ethnic asylum seekers from Eastern Europe and about 700,000 expellees who had temporarily settled elsewhere brought the total number to 9.5 million (BMI 2011: 13). It is argued that this increase was closely related to the recruitment ban, as asylum seeking remained the only legal possibility for non-family immigrants to enter Germany (Joppke 1999: 87). In line with the rising

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57 This law remained as the main text to deal with the issue of migration until the current one.
number of asylum seekers, there emerged a clear shift in the framing of the asylum issue. Both left and right wing parties departed from the former humanitarian and liberal discourses and were drifted to one of those, which depicted the issue in negative terms and securitized it alongside societal concerns. As in case of the EU level, ‘bogus asylum seekers’ (Scheinasylanten) turned to be the most appealed metaphor which put the genuineness of the asylum seekers under question. To recast, according to this argument, they would not be bona fide asylum seekers, who fled persecution; rather they were to be ‘cheaters’ who tried to come to Germany or to Europe in generally, for economic purposes. In more extreme form, as asserted by Lummer, who was Senator for Internal Affairs of West Berlin at that time, they were criminals, ‘drug dealers – or drug containers’ (cited in Raethzel 1990: 37).

Yet, one point needs to be clarified here. Conservatives’ securitarian discourses mostly referred to non-ethnic asylum seekers, not to ethnic asylum seekers\(^{58}\) (Joppke 1999).

Indeed, ethnic asylum seekers were not conceived as ‘migrants’ in the real sense; rather they were regarded as German due to their ‘German origin’; an origin, which attributes them Germaneness \textit{per se} (Raethzel 1990: 32). On the other hand, even though the Social Democrats were against such kind of framings as well as differential treatment among ethnic and non-ethnic asylum seekers, they were also inclining to delegitimize the presence of asylum seekers under different overtones. They played the ‘numbers game’ by asserting that presence of too many asylum seekers and immigrants added fuel to the hostility to foreigners (Auslaenderfeindlichkeit) and strengthened the hands of Conservatives, which tried to capitalize on unease among native population to enhance their political power (ibid.). In this context, the Christian and Social Democrats agreed with the necessity of restricting the entry of further asylum seekers either for the sake of German welfare state or for the internal stability of a democratic society. More precisely, the call from both right and left wing

\(^{58}\) Similar view was put forward by an interviewee (AG\(_1\)).
parties to change the asylum regime was institutionalized quickly. In 1980, Germany imposed visa requirements on asylum seekers to stop further applications and started to add extra-difficulties for those recognized as refugees within the country (Webber 1991: 14). Especially, with the Asylum Procedure Act of 1983 (Asylverfahrensgesetz), social deterrence measures, aiming at discouraging further applications, found their legal ground. Long-waiting periods during the application process, limited social security benefits, restriction to the freedom of movement, confinement to the camps, ban on employment, were few among the many strategies to make the German asylum system less attractive for would-be asylum seekers (see Raethzel 1990: 34; Joppke 1999: 88-89). Afterwards, Germany came to impose fines on airlines, which would carry undocumented migrants in January 1987 and other European countries, such as Britain, Denmark and Belgium adopted the same measures (Webber 1991: 15).

These restrictive turns especially concerning the issue of asylum seekers and toughening of labour immigration policies cannot be isolated from the European level developments. As detailed in the EU chapter, these changes entered the EU agenda and became part of the European integration process with the emerging Schengen regime. To recast, starting from the late 1980s, restrictive visa policies, which clearly singled out ‘risky’ countries, hardening asylum seeking procedures, which aimed at sorting out the ‘bogus’ asylum seekers, and technological ‘developments’, which pawed the way for sophisticated databases in order to control movement of people, all reshaped and, transformed migration practices across Europe; thereby transfiguring certain types of mobility into security issues.

4.1.4. Refugee ‘Crisis’ of 1990s and Asylum Compromise

When it comes to the 1990s, Germany witnessed far reaching developments and transformations. The end of the Cold War, which pushed millions of asylum seekers into
Germany from the ex-communist states, and the reunification, which intensified the movement of East Germans to the West Germany with fundamental socioeconomic and political repercussions, German migration regime, especially regarding asylum seekers, was drifted towards a more restrictive one (Mollica 1993). The number of asylum seekers, including ethnic Germans and refugees from Eastern Europe and Soviet bloc countries increased at an unprecedented level. By 1992, the number of asylum applications peaked at nearly 440,000 (BMI 2011: 17). Besides, during that time, Germany also witnessed the rise of violent attacks on asylum seekers. According to the analyses,

[T]he attacks in East and West rose from roughly 300 per month in 1990 to 961 in October 1991, and in September 1992 more than 1100 were registered. In June 1993 the number peaked at more than 1,400 attacks (Haas 2003:186).

The worst attacks happened in the towns of Rostock (22 August 1992), Mölln (22 November 1992) and Solingen (25 May 1993) which added fuel to the growing unease. Within this political context, the polarization between right and wing parties concerning the asylum issue one the one hand and immigrant workers on the other hand intensified. As mentioned already, the Christian Democrats privileged ethnic-Germans and their right to seek asylum in Germany; however, they took a critical position on both non-ethnic asylum seekers and migrant workers. They argued that asylum system was abused by ‘economic immigrants’ from underdeveloped regions. For instance, Rudolf Seiters, who was the Secretary for the Home Department at that time, stated that: ‘The right to asylum, meant to protect those who are persecuted in other countries, was turned into an instrument for economic immigration that was no longer under control’ (cited in Davy 2007: 79f). On the other hand, the Social Democrats and the Greens were against that privilege granted to the ethnic Germans; but at the same time, defended the constitutional right of asylum. Besides, they were in favour of the improvement of the situation of migrant workers and
reformulation of citizenship law in a more liberal form (AG₂). Within this struggle over the rights of ‘different’ categories of migrants, asylum seekers became the most striking issue; all parties agreed that something should be done in the face of ‘dramatic’ rise of asylum applications. The possible solution concentrated on the redefinition of the commitment to providing asylum in general and on the reinterpretation of the Basic Law Article 11, which served as the legal ground for this ‘unrestricted immigration of the Aussiedler’ (Klusmeyer and Papademetriou 2009: 182). In the end, with the ‘asylum comprise’ reached between the governing coalition of the CDU/CSU and the FDP and the main opposition party, the SPD, Article 16 of the Basic Law was amended in 1993 (Prümm and Alscher 2007: 76). This compromise was supported by the SPD in exchange for a liberalization of Germany’s restrictive citizenship law (see Hobe 1993). This amendment provided that those who were from a ‘safe country’ or entered Germany through passing a ‘safe third country’ shall not apply for an asylum in Germany (Giesler and Wasse 1993). More specifically, following measures were laid down by the 1993 amendment:

- fast track applications deemed to be ‘manifestly unfounded’, because of, for instance, forged documents;
- ‘safe third countries’ including Poland and the Czech Republic to which asylum seekers could be returned;
- ‘safe countries of origin’ to which applicants could be returned;
- Fast track adjudication procedures in extra-territorial space inside airport (Geddes 2003: 87-8)

Moreover, it was decided that refugees, who came to Germany because of war or civil war in their countries, shall not be dealt with asylum procedure anymore; rather they came to be subject to a special procedure, - that is allowing them to stay in Germany temporarily, namely until the situation in their countries would normalize. Finally, a more restrictive approach concerning the admission and naturalization of ethnic-asylum seekers
was also introduced. As stated before, in the post-World War II period, these asylum seekers were automatically entitled to have right to secure legal status and naturalization. Yet, from the early 1990s, they have been required to apply for admission, take a language test as well as to complete long questionnaire before their arrival (Hailbronner 2006: 216; Howard 2008: 43).

These changes in the legislation together with shifts in the discourses surrounding asylum seekers mirror how the securitization of migration began to prevail over the past years’ humanitarian approach. Restrictive practices were put into place alongside the framing of asylum seekers as some kind of ‘threat’, ‘outsiders’ who might abuse the system (AG5). In this context, ‘rhetoric of abuse’ emerged as an important ‘device to evade responsibility for providing protection’ (Schuster 2011). This confirms what Huysmans (2006: xii) contends, namely dealing with refugees as a ‘humanitarian question’ puts forwards ‘different relations to refugees’ than dealing with it as a ‘problem’ or ‘security concern.’ As in case of previous developments, these legislative changes correspond to the securitization of asylum seekers at the EU level. As analyzed in the previous chapter, the ongoing European integration process under the Schengen system also integrated the issue of asylum into a security framework. The line between ‘economic immigrants’ and asylum seekers came to be blurred; and fight against ‘bogus asylum seekers’ gained prominent place at the EU level. All these have affected the member states’ practices. More tangibly, as analyzed before, Dublin Convention signed in 1990 and London Resolutions of 1992 considerably limited the right to seek asylum across the EU through dwelling upon ‘safe country’ concepts. In this context, it is eloquently argued by Hellmann et.al (2005:151) that ‘the specific setting of Schengen’ has restructured generally member states’ and particularly Germany’s migration policy; namely, after the construction of this setting, ‘not universal human rights or the treatment of asylum seekers were the starting point, but security matters.
[And] without this new framing of the asylum and refugee policy, the amendment of the *Grundgesetz* in 1993 would not have been possible.’ It is further argued that Germany – as well as other member states – gained an important political ground to implement their restrictive agendas by claiming that these practices and changes were done to comply with the EU’s requirements (ibid. 152). In this sense, Europeanization in the field contributed to the capacity of Germany to control migration as opposed to the arguments, which point to the diminishing role of member states in migration matters in the face of these supranational transformations (Geddes 2003: 85-6). Furthermore, as put forward by several works, implementing restrictive practices under the guise of EU level requirements, - called ‘escape to Europe’, has provided Germany and other member states an opportunity to regain their sovereignty (Freeman 1998; Geddes 2003; Guiraudon 2000).

Getting back to ‘asylum compromise’, ‘safe third country’ principles strengthened the hands of Germany in dealing with asylum applications. However, in order to implement these principles, namely to facilitate the removal of rejected asylum seekers as well as irregular immigrants, there emerged a need to sign readmission agreements with those ‘safe third countries’ and ‘safe third countries of origin’. First readmission agreement was signed with Romania in 1992. Under this agreement, Romania accepted to take back rejected asylum seekers – (consisting of mostly Roma people) in return of financial assistance. This agreement attracted much of the criticisms, as it was enforced with few formalities in verifying identities of those rejected asylum seekers. Most importantly, critics drew the attention to the fact that ‘genuine’ asylum seekers were likely to be deported to Romania, whereby there was no safeguards against persecution at that time (Reerman 1997). Moreover, the violence used during the deportation process attracted worldwide criticisms. The New York Times, for instance, defined the agreement as a ‘deportation pact’ (The New York Times 25 September 1992).
Following this, Poland and Germany signed another readmission agreement in 1993. With that agreement, Poland received funds from Germany and in return, it was obliged to set up necessary administrative system for asylum seekers and refugees, and detention centers for the deportees (Alscher 2005: 22; Marshall 2000: 124). Moreover, Poland committed to take up yearly 10000 migrants who crossed the German-Polish border irregularly (Alscher 2005: 22). Alongside these agreements, Germany provided Poland with technical equipment and expertise to strengthen its border controls. In fact, as in the meantime, the eastern border of Germany was an external border of the ‘Schengenland’, Germany devoted huge resources and empowered border police to control borders against irregular entries from Poland and/or other nearby countries. More precisely, the BGS was equipped with high-tech devices, its authority and number of staffs were increased and its cooperation with federal and States’ police was enhanced (see Koslowski 2006). Therefore, militarization of border controls was also in the making in the pre-September 11 period.

4.1.5. Green Card Scheme and New Citizenship Law: Paradigmatic Shifts?

When the SPD-Green coalition government came to power in 1998 after 16 years ruling of the Christian Democrats, Germany’s migration politics underwent ‘radical’ changes. At the outset, the coalition government expressed their intention to reform the existing migration practices. In the pre-September period, the two of these reforms are of utmost important, namely the new citizenship law and the so-called Green Card Initiative.

59 Before this agreement, a readmission agreement between the Schengen States and Poland had been already signed on 29 March 1991. Accordingly, Poland agreed to take back its nationals, who entered or stayed irregularly in the Schengenland.
60 As noted by Hobbing (2006) as of 1995, ‘98 percent of the ‘Schengenland’ land border was controlled by the experienced staff of France and Germany.’
Besides, they established an Independent Commission, which was tasked to prepare, as defined by Schilly ‘the most modern migration law in Europe’ (Schily 2001).

Firstly, they initiated the reform process of the citizenship law as agreed in principle with the CDU/CSU in exchange for the ‘asylum compromise’. As demonstrated in the previous sections, there were some incremental changes concerning the naturalization of foreigners starting from the early 1990s. However, these changes did not challenge the conservative premises of German citizenship practices, which have been driven by ‘ethnic’ model of nation (Hoffmann 1992; Habermas 1994a/1994b; Brubaker 1992; Green 2000). To reiterate, German approach towards citizenship has been a very restrictive and exclusionary one, which put emphasis on language, culture and ethnic origin as means to bind the ‘nation’ together (Greenfeld 1993: 286) and which precluded dual nationality and naturalization via birth on a territory (jus soli). Namely, conferring citizenship via descent (jus sanguis) has been the primary principle within the naturalization process. Indeed this tradition reflected itself in the privileges granted to ethnic Germans in the process of naturalization. Moreover, for a long time and even today, citizenship issue has been the corner stone of the so-called Leitkultur (leading culture) debate in German political history and reflected the fiction of ‘Germany is not a country of immigration.’ Diez and Squire (2008: 569) assert that because of the clear and rigid distinction between the self and other as well as owing to the ‘ethnic definition of citizenship’, migrants were easily depicted as ‘foreigners’ and by extension ‘threatening others’ in the context of German political discourse on migration. They further argue that even the term ‘naturalization’ signifies the German notion of a nation constructed ‘as an organic, “natural” community, and an odd one in that it is precisely because of this organic understanding that a change of citizenship is not within the bounds of “normal”’ (ibid. 568). It can be asserted that this approach deeply rooted in the history of Germany and
become one of the important structural factors that have shaped its citizenship practices (Thraenhardt 1995). Many times in history, such as in the course of discussions on 1977 Naturalization Guidelines, the CDU/CSU exclusively appealed to ‘migration-as-threat to cultural identity’ narrative. Put it in another way, as posited by Schmidtke (2004: 175) ‘the CDU/CSU repeatedly depicted (excessive) immigrants as a genuine threat to German society and employed nationalistic rhetoric based on the idea of ethno-cultural homogeneity.’

However, since migration of non-ethnic foreigners, including second, third generation ‘migrants’ originating from guest worker system, became a regular feature of Germany, the existing system with its emphasis on naturalization via descent (jus sanguinis) was outmoded, and could not meet the needs of current state of affairs (AG₈). Referring to the situation of Turkish migrants, Howard (2008: 43) puts it:

The striking contrast between German-born Turks (speaking fluent German, often studying and working productively in Germany, yet not being granted citizenship) and the large numbers of ‘ethnic Germans’ (arriving with little to no knowledge of German language or culture, yet being granted citizenship automatically) was becoming more and more difficult to justify, either morally or economically.

In that context, the SPD-Green coalition insisted more on the need to reform the citizenship law. They argued that existing law made the naturalization process difficult for migrants, who have been living for decades in Germany; and this situation has been impeding their integration (Hailbronner 2006: 215). The necessity to reform the law was also reflected in the number of migrants in Germany. By the end of 1998, the number of foreigners counted 7.32 million, which corresponded to the 9 percent of the total population and most of these foreigners have been living in Germany more than 10 years; some even more than 20 years (ibid.). Their children started to constitute ‘second’ and even ‘third’ generation of migrants.
In addition to this mismatch between the number, characteristics of migrants, and the citizenship regulations, there were also more pragmatic considerations (PG₃). Among those, economic concerns became more prevalent (ibid.). As one of the interviewee stated that Germany was compelled to readapt its migration practices, especially those relating to citizenship issue in order to become more attractive for highly skilled migrant workers (AG₄). He further argued that due to the lack of incentives, and even existence of harder and complicated bureaucratic procedures in Germany, those highly skilled workers preferred to go to USA or Canada where they were welcomed by policies that were more liberal (ibid.). Certain scholars confirm this view by stating ‘liberalizing citizenship regulation was also seen as a way to improve Germany’s image in order to attract highly skilled workers… Compared to traditional migrant receiving countries, Germany’s exclusionary citizenship policy was a disadvantage in the highly competitive international labour market for skilled workers’ (Anıl 2005: 460). In the light of these discussions, it can be stated that departure from a rigid notion of citizenship gained momentum during that time, which, in turn, prepared the ground for the reform of the citizenship law.

In that context, a very hard and long discussion process started. During the parliamentary reform of the law, the main controversy was the opposition of the Christian Democrats to the facilitation of naturalization as well as to the notion of dual nationality, (Holmes Cooper 2002). The Christian Democrats pushed forward more securitarian arguments and invoked the Leitkultur debate. They asserted that the suggested reform, which aimed at relaxing the citizenship requirements, represented a challenge to the ‘German cultural identity’ (Pautz 2005: 39). While the negotiations on the reform were continuing, Roland Koch, former leader of the CDU in Hessen, initiated a petition campaign under the motto of ‘yes to integration, no to dual nationality’. This campaign mobilized huge numbers of Germans in order to remove any possibility of allowing dual
nationality. By the early January 1999, opinion polls demonstrated that %53 of the all Germans were against unrestrictive dual citizenship; 71% of CDU/CSU supporters; 82% supporters of far-right parties (Der Spiegel 1999 cited in Holmes Cooper 2002: 91). They built upon their arguments on the following points:

- Dual nationality is perceived to create conflicts of loyalty between the individuals and the two or more states of which he or she is a citizen, and it is therefore a hindrance to successful integration;
- It can create legal uncertainties for the dual national, for instance, in inheritance law, over consular protection, or regarding national service, which are only partially covered by bilateral agreements;
- It is seen as unfairly favoring dual nationals over “normal” citizens with only passport by according full citizenship rights and privileges in more than one country;
- It is rejected in international law, and until 2002, Germany was one of the signatories to the 1963 Council of Europe Convention on the Reduction of Cases of Multiple Nationality (Green 2005: 922)

Furthermore, there emerged a conflict as regards to the role of citizenship in integration process between the opposition and the government. More precisely, the governing coalition conceived the naturalization as one of the cornerstone of integration, which could speed up the process of inclusion. Whereas, the Christian Democrats considered naturalization as a complementary instrument in the process of integration rather than as a tool per se to ensure integration. Or, better to say, they believed that, it should be granted after achieving successful and full level of integration (Hallbronner 2006: 228; Green 2005: 936).

Following such an intense debate, the new law was approved in 1999 and took effect in 1 January 2000. Nonetheless, it came up with a slightly liberal framework compare to the past one. Main changes were; substantial facilitation of the naturalization,
'by including a stronger toleration of dual nationality, by replacement of discretionary regulations with individual rights, by introducing new modes of acquisition, and in particular by introducing a *ius soli* element into the nationality law’ (Hailbronner 2006: 213). The main conditions for the acquisition of German citizenship were set up as follows:

- Eight years residence permit (before the requirement was 15 years)
- Declaration of the loyalty by the applicant to the free and democratic order of the Constitution (*freiheitliche und demokratische Grundordnung*)
- Having the necessary financial mean to live without the need of state support (though, those who are dependent on the state support not because of his/her fault or negligence are exempted from this requirement)
- Having a clear criminal accord
- Renunciation of previous nationality, if this is not forbidden by the laws of countries’ of origin. Added that the EU citizens are not targeted by this provision, as they are entitled to have dual citizenship on the ground that the reciprocity is ensured (ibid.)

Furthermore, regarding the children of long-term residents, who were born into Germany, the FDP’s ‘option solution’ (Optionslösung) was accepted in the face of persistent opposition of the CDU/CSU group to dual nationality (Howard 2008: 49). According to this model, ‘children born in Germany of long-term foreign residents would receive temporary dual citizenship but would have to choose between their two nationalities by the age of 23’ (Holmes Cooper 2002: 98). In this context, the adopted citizenship law is to be considered as liberal, since it introduced the possibility of acquisition of citizenship by birth for the first time. On the other hand, it still carried the legacy of old citizenship laws; that is the on-going resistance to dual nationality excluding many migrants from the naturalization process. Besides, it was framed explicitly in securitarian and culturalist terms.
Another decisive development is the introduction of the so-called Green Card Scheme by Schröder in 2000. This was motivated by the labour shortages in strategic sectors, particularly in the IT industry. Business circles lobbied hard and warned the government that despite the current unemployment rate, Germany was in need of both qualified and unqualified labour force for the sake of competitiveness of Germany in world market (Carle 2007: 10; Kruse et al. 2003: 130). Alongside these discussions, there emerged another robust pro-immigrant discourse, which drew the attention to the demographic problems of Germany (Oswald 2001). Various expert opinions started to point out that Germany’s population was declining rapidly and this would have tremendous impacts over the available workforce, and social security system. In the meantime, the estimations demonstrated that:

If the current trend continues, and even given a positive migration balance of 300,000 immigrants per year, meaning that 300,000 more persons enter into Germany than those leaving the territory, the German population will shrink from 82 million to 75 million in 2050 (Schmid-Drüner 2006: 191).

On the other hand, the Christian Democrats continued with their exclusionary political campaign. They leveled harsh criticisms against the initiative. They came up with the slogan of ‘Children not Indians’ (Kinder statt Inder) (Green 2004: 113; Meier-Braun 2002: 102). Despite these massive anti-immigrant campaigns, the Green Card was introduced to attract those highly qualified computer experts, specifically from India, to fulfill labour shortages in IT sector on February 23, 2000. Although Green (2004: 12) posits that this move was ‘distinctly modest in scope’, it can still be considered as an important break with the past political strategies. This is mainly related to fact that unlike the old rhetoric and practices, which aimed at restricting further labour immigration and reconfigured migrants as ‘burden’ and ‘problem’, the Green Card initiative was an attempt
to encourage foreign workers’ entry and stay in Germany (Diez 2006:8; Schmid-Drüner 2006: 20ft), though targeting mostly highly skilled foreigner and excluding the low-skilled ones.

Within this new political atmosphere, marked by positive framings of migration issue, the debate over the necessity of a new immigration law intensified. Even though economic and demographic concerns were the important push factors for a proposal of a new law, integration of migrants became also a sensitive issue and striking stimulus in the early 2000 (AG₃). Against the pre-existing practices privileging controlling, containment and policing approaches over the issue of integration alongside the maxim of ‘German is not a country of immigration’, various voices started to underlie the necessity of a more ‘structured integration approach’ (PG₁). In the meantime, the coalition government also put emphasis on the need of a more sophisticated integration strategies, as it became clear that migrants could not be dealt with existing approaches any more; they were no longer ‘guests’; but they ‘have become an integral part of German society and so should be allowed to participate fully in it, both socially and politically’ (Pautz 2005: 40).

Accordingly, an independent Commission, chaired by the former Bundestag President Rita Süssmuth from the CDU, (that is why it is called also Süssmuth Commission) and consisting of politicians from different wings, representatives of industry, NGOs, churches and academics, was appointed by the BMI in order to prepare a draft for the new law on 12 September 2000. The legislative process started before the September 11 attacks, namely in July 2001. Nevertheless, due to the long lasting debates, the new law took effect in January 2005. As this process corresponded to the terrorist attacks of September 11 and Madrid bombings, the analysis of the political landscape, which gave birth to this new law, will be undertaken in the following section dealing with the post-September 11 developments.
4.1.6. Interim Conclusion

Analysis of the pre-September 11 period demonstrates that German migration practices were increasingly securitized; a more control-oriented and exclusionary practices were put into place. However, this does not mean that migration as a whole was securitized (Diez and Squire 2008: 572) nor was this securitization a linear process having developed without any interruption.

Firstly, in the post-World War II period, Germany started to follow a liberal and humanitarian approach owing to the Nazi legacy. Especially, ethnic-asylum seekers were dealt with very inclusionary practices. Asylum seeking was accepted as an untouchable right that was enshrined in the Basic Law. In a similar vein, given to the post-World War II economic boom coupled with the labour shortages, an open labour immigration policy under guest worker system was advocated at that time. Migrant workers were welcomed and conceived just as ‘labour’ without much socio-political connotations. However, both the asylum- and labour immigration issues started to witness profound changes following the 1973 oil crisis. Germany closed its doors, first, to labour immigration under the recruitment ban. Return of existing migrants was encouraged. Surveillance practices, such as in the form of AZR, were put forward. Besides, right-wing parties, particularly the CDU/CSU group, invoked the idea that foreigners would be a threat to the welfare state or socio-economic well-being while Germany was struggling with economic problems. In a similar vein, when it came to the 1990s, with the ‘asylum compromise’, right to seek protection in German was considerably limited. Particularly, the so-called abuse of the system by ‘economic immigrants’ turned into the dominant reasoning shaping the practices. Furthermore, other security-oriented and exclusionary practices, such as limiting the rights of asylum seekers within Germany or preventing their entry through visa requirements and carrier sanctions, were adopted. Even the liberal approach towards
ethnic-asylum seekers came to be dismantled. Lastly, integration became a vexed issue, especially in the light of culturalist approaches advocated by the CDU/CSU group. The Christian Democrats particularly remained wedded to an ethno-cultural conception of German nationality […] Prominent in opinion on the right of the political spectrum is a deep-seated fear of the “allienness” of the foreigner and a priori assumption that the unintegrated foreigner will somehow undermine German “order”, both in the sense of cultural norms and state security. Both the attachment to the jus sanguinis principle and the fear of the ‘other’ are reflected in attitudes towards naturalization (Hogwood 2000).

Shortly, migration already came to be dealt with under a securitarian framework emphasizing ‘defence and policing’ in the pre-September 11 period; however, terrorism was not referred as a reason behind the implementation of security-oriented policies. The reasoning was mainly to curb further migration, fight against ‘bogus’ asylum seekers and protecting welfare state, jobs and the so-called cultural homogeneity. This proves what Huysmans (2000/2006) argues that migration is to be securitized in different thematic fields, namely it is constructed as a threat to internal security, welfare state or cultural identity. This process should be read alongside the EU level developments. As reiterated in detail, European integration process, which called for the abolition of internal borders, had important repercussions on member states’ migration practices. Various control-oriented and securitarian practices were developed under the Schengen system. Most of these were in preventive nature and aimed at containing and deterring ‘unwanted’ migration. Given the harmonization of certain practices, which have been deeply driven by security-mindset, Germany’s migration regime has also internalized the securitization process developed at the EU level.

However, during the SPD-Green coalition, this securitization process was interrupted with the reform of the citizenship law and the Green Card Initiative. Reframing
the issue of migration in positive terms as a means of offsetting aging population and fulfilling labour shortages in certain sectors prevailed. In this promising atmosphere, the legislation process of the new immigration law started. The following section looks at this process and deals with the major focus of this research; namely whether migration has been further securitized in relation to terrorism in the aftermath of September 11 and subsequent attacks. More precisely, the question of whether migration practices have converged with that of counter terrorism and turned into a tool in the fight against terrorism will be delineated.

4.2. The Post-September 11 Period

As mentioned above, the SPD-Green coalition assigned the Süssmuth Commission for the preparation of a new immigration law. The first report of the Commission, titled as ‘Structuring Immigration – Fostering Integration’ was issued on 4 July 2001. In the preamble of the report, it was explicitly stated that ‘German needs immigration’, albeit in a managed form, due to the economic needs and ageing population. It proposed a ‘selection system’ targeting qualified people according to their expertise and age. Besides integration programmes including integration and language courses similar to those in the Netherlands were put forward (see Report of the Süsstmuth Commission 2001: Sections II and IV). Another significant recommendation was securing young migrants, who were born into or have grown up in Germany, against expulsion and removal (ibid. 250). Moreover, it emphasized the necessity of faster procedures for asylum seekers to prevent long-waiting periods and resultant difficulties. Especially it underlined the importance of preserving the right of asylum as a fundamental, constitutional right as opposed to ‘converting [this right] into an institutional guarantee’ (ibid. 121). Most prominently, indiscriminate use of the term ‘abuse of asylum’ was criticized as ‘it signifies
a ‘negative judgment on ethical grounds’ (ibid. 140) Rather the report called for the ‘sensible and responsible use of the term’ that can differentiate those genuine asylum seekers from those who abuse the system (ibid. 140-141).

In line with this report, the first draft bill was published in August 2001, though some important proposals were not included, such as those concerning the improvement of the situation of irregular immigrants, or liberalizing immigration of highly-qualified foreigners not having actual job offers (Schmid-Drüner 2006: 194). However, the opposition, namely the CDU/CSU, whose influence increased in the Bundesrat with the States elections, rejected the bill entirely. Their main objections were formulated along three lines: ‘abuse of the asylum system; the strain put on social security systems; and the general cost that would create for the Laender’ (Diez 2006: 10). When this debate over how to reconcile differences between the opposition and the coalition government was going on, the September 11 attacks happened. In such a context, the ongoing legislation process of the new immigration law was disrupted and the debate shifted towards security concerns. More precisely, it is asserted that catastrophic attacks of the September 11 changed the ‘entire context’ and ‘gave the immigration debate a whole new dimension’ in Germany (Kruse et al. 2003: 132). After the attacks, German political agenda was shocked by the news from the U.S intelligence services, which brought out the linkage between the so-called Hamburg terrorist cells with the attacks in New York. It came up that perpetuators, who were living in Hamburg with student or tourist visas, had partially prepared and involved in the attacks (Zolberg 2002: 284; BfV 2002). For example, as mentioned before, it was revealed that Mohammed Ata, who was believed to be one of the master-mind of the attack, entered the country with three different falsified passports and lived and studied in Hamburg from 1992 to 1999 (BfV 2002). It was further stated that

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61 This view was pointed out by various interviewees, especially by those having directly involved in the legislation process (PG₁; PG₃; PG₄; BG₁; NSOG₁).
after having left Germany, he joined a terrorist camp in Afghanistan (Haubrich 2003: 7).

Similarly, according to intelligence reports, Abdelghani Mzoudi and Mounir El Motassadeq were listed as the other members of the Hamburg cell who involved in the attacks through having provided logistical and other forms of support to the hijackers (see Haubric 2003: 6f; Walthelm 2007: 4). Following investigations declared that Al Qaeda had already been active in Hamburg from the late 1990s onwards (Rau 2004: 312). Thereafter numerous reports originated from the U.S. drew the attention to Germany and other EU member states, including Spain, which were believed to have served as ‘key logistical and planning bases’ for Al Qaeda and other related networks (Archick et al. 2006: 2).

In this context, political and public discussions intensified not only concerning the possible threats that might come from outside; but also from the so-called ‘sleepers cells’ (see BR-Drs. 807/01:1). The eyes turned to the possible deficiencies in German security policies and precautions. Even though, terrorism is not a new phenomenon in Germany, the political circles invoked the idea that current approaches and measures would not be appropriate to tackle this ‘new’ kind of terrorism. Besides, ‘liberal asylum policies and the low level of surveillance by authorities’ together with the ‘strong privacy protections and rights of religious expression’ (Miko and Froehlich 2004: 3; Miko 2005: 37-8), were represented as the factors that gave terrorists wide range of opportunities to enter Germany and prepare the ground for their actions. All parties more or less constructed this linkage between security and migration, albeit at different level and intensity (AG₁). For example, just after the attacks, Günther Beckstein, Bavarian Minister of the Interior at that time (CSU) commented that Germany had turned into a ‘residential, resting and preparation space for terrorists’ (Diez 2006: 12). Most extremely, he stated that ‘one can no longer discuss without further considerations whether one allows people from Iraq, from the Arab
world to come to us easier’ (ibid.). Likewise, Secretary General of the CSU, Thomas Goppel called for the changes to the immigration bill as, according to him, Germany cannot open the borders further after September 11 (ibid.13; see also BT-Drs. 14/189: 18429C). Alois Glück, again from the CSU, proposed an ‘open debate about the consequences of immigration policy and the risks linked to the trafficking of radical forces into our country’ (Diez 2006:13). These securitization voices not only came from the right win the parties, but also Social Democrats were inclined to support this rhetoric. For instance after the attacks, Chancellor Schröder, continued to back the new immigration law and stated that ‘we should not question our values which we are defending against terrorism due to the terrorism. Hence terrorism should not keep us away from formulating a new modern immigration law that is in line with the imperative of our national economy’ (Diez and Squire 2008: 574). However, immediately, he pointed to the necessity of checks on people before they entered Germany in the course of visa processes (ibid.). Within this troubled context, the focus of political agenda was shifted towards the issue of terrorism. As will be detailed below, Otto Schily, who was one of the forerunners of drastic and draconian measures in the immediate aftermath of the September 11 attacks, introduced the so-called two ‘security packages’ (Sicherheitspaket), which have had far-reaching impacts over asylum- and immigration related practices.62

4.3. Changing Perceptions of ‘Terrorism’ and Security Packages

Firstly, two points should be mentioned before explaining the main features of the so-called ‘security packages’ adopted in the wake of the September 11 attacks. The first one is related to the history of terrorism in Germany. As it is mentioned before, terrorism is not a new phenomenon in Germany; crucial counter-terrorism measures have been already

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62 One of the interviewees pointed to the fact that Otto Schily turned to be an important figure in prompting a linkage between migration and terrorism in the aftermath of the September 11 attacks (BG1).
in place in response to the activities of the RAF, which was active from 1970s to the late 1990s. Furthermore, during the early 1990s, Neo-nazi terrorism turned into another important concern. Following the reunification, Neo-nazi violence started to target mainly non-nationals, including immigrants, asylum seekers as well as naturalized Jews (Davy 2007: 183). In this context, Germany implemented various preventive measures, which affected the constitutional rights and particularly addressed the RAF. Among those, the most significant ones were the three so-called Counter-terrorism Acts adopted during the second half of 1970s. Particularly they ‘criminalized the formation of terrorist organizations, widened the powers of the prosecution authorities, and restricted the rights of defense’ (Rau 2004: 313-4). Moreover, the so-called contact ban law (Kontaktsperregesetz) was adopted which laid down the ground for incommunicado detention on September 30, 1977; though, this has never applied till now.

However, as in case of the EU level, there were crucial differences between the framings of this pre-September 11 period terrorism and today’s so-called international terrorism. These differences are to reflect in the approaches and proposed measures surrounding the debate on current ‘international terrorism’. Here, the aim is not to give a full account on these differences, as the EU chapter has already explained the changing conceptualization of terrorism in the post-September 11 period. Yet, it is still necessary to contextualize these points in German case in accordance with its own experiences of terrorism and reactions in the post-September 11 period.

Firstly, even though the RAF had also to some extent international dimension concerning both its membership and operational base, it was not directly associated with the movement of people. Whereas, during the parliamentary discussions, the September 11

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attacks were presented much more as part of a global network; its membership and organizational base was framed as delocalized (see BT-Drs. 14/7065). Hence, as discussed already in case of the EU, ‘terrorist’ could be individualized in previous years; however, today, perpetrators of international terrorism signify a ‘de-individualized phenomenon’ (Lepsius 2002). Unlike the previous counter-terrorist measures, which were directed against a known, personified threat, the current ones have been motivated by the idea that today terrorism might be everywhere, but also nowhere, it is so elusive. In this context, as Lepsius (2004: 437) puts it:

This novel threat did not seem to arise from individual terrorists, but from a general development in a globalized world […] The legislative initiatives were not meant to address the specific deeds of September 11, 2001, rather they are aimed at what is perceived as an ever present threat by Islamic terror organizations…The “security packages” are thus not reactions to the attacks as such but constitute a political symbolic act, associated with the actual events. The law makers were not motivated by the actual threat, rather by the imagination of a new and rather vague or unknown threat.

More precisely, as noted in the EU chapter, since today’s terrorists were conceptualized as unknown, not identifiable easily, preventive measures were asserted as of utmost importance in order to be ready to any terrorist activity which could happen anytime, anywhere in Germany (AG₁; SEG₁). However, despite this framing, namely, even though international terrorism was seen so omnipresent; or suspected terrorists were framed more as ‘mobile’, ‘nomadic’ individuals, not bound to a certain, known locations, the current approach was still likely to narrow down the categorization of terrorists or ‘suspected’ terrorists. As will be explored in the following pages, given the presumed profile of perpetrators of the September 11, preventive measures were inclined to target certain group of individuals. As exemplified above, according to the political discourses informing the current practices, these individuals were to be among irregular migrants.
trying to cross the borders without being caught by the police, or among asylum seekers
taking advantage of the liberal asylum regimes. Moreover, they were believed to be inside
the territory, among those ‘second’ and ‘third’ generation migrants, who were allegedly
radicalizing in mosques or already established their logistical bases. In this light, despite
the omnipresent and indeterminate nature of today’s terrorism, the measures were
formulated through relying on some kind of ‘profiles’ to be used in sorting out ‘risky’
people with the aim of counteracting terrorism. These perceptions are fundamental in
explaining why the practices regarding the RAF or any other form of ‘domestic’ terrorism
were not directly associated with immigration and asylum law; but linked to criminal law
(Davy 2007: 176).

The second point implicating in migration practices relates to the definition of
terrorism. As foregrounded in the EU Chapter, the lack of clear and precise definition of
terrorism is likely to provide a room to deal with wide range of issues under the rubric of
terrorism. In Germany, neither in the course of prior counter-terrorism practices nor in the
current context, was the definition of terrorism detailed and specified (Rau 2004: 320).
Only, the BfV provided a definition, though it is still vague in its application. According to
this definition, terrorism is ‘the persistent struggle for political goals, which are to be
attained with the help of attacks against the physical integrity, life, and property of other
persons, in particular through serious criminal offences as defined in Section 129a para. 1
of the Criminal Code (Strafgesetzbuches), or through other offences, which serve as a
preparation for such crimes’ (cited in Rau 2004 321). Rau (2004) argues that even though
the ‘objective’ criteria was tried to be established through referring to Section 129a of the
Criminal Code, the vagueness of the definition persists. This is mainly because it includes
the ‘subjective element of the political motivation of perpetrators’, an element which is not
referred in Section 129a. Similarly, Walter (2007:7) argues that Section 129 of the
Criminal Code is devoted to organized crime in general and it is not specifying terrorism; in that context, there is no ‘any reference to a political motivation on the part of perpetrators.’

Furthermore, as the analysis of the EU level developments demonstrates, the EU could not offer precise definition for the acts of terrorism as well. To repeat, the definition provided following the September 11 attacks became subject to significant amount of criticisms as being so broad. In particular, it was argued that not only activities, which are defined as terrorist acts on the basis of ‘sound evidences’, but also any ‘sort of acts, including association or even simple contact’ as well as any oppositions against state policies, such as anti-globalization movements, trade union or environmental protests, may easily come under the rubric of counter-terrorism measures according to this definition (Eckert 2005: 5). Nevertheless, in line with the EU’s definition, Germany amended Section 129a of the Criminal Code, which now defines the aim of ‘terrorism’ as

unlawfully coerce a public authority or an international organization through the use of force or the threat of the use of force, or to significantly impair or destroy the fundamental political, constitutional, economic or social structures of a state or an international organization, and which, given the nature or consequences of such offences, may seriously damage a state or an international organization (Criminal Code: Section 129a).

Keeping these criticisms in mind and given the political, legal, social consequences of defining an act as terrorism or a person as terrorist, this vague or broad definition is fundamental in the convergence of counter-terrorism and migration practices and agendas, which may, in turn, easily facilitate the categorization of migrants as ‘terrorist suspects’ or ‘terrorists’.

Turning to the main concern of this section, just after the attack, Otto Schily called for ‘a new security concept’ to change and revise existing laws ‘in search of any
sorts of deficiencies’ (Lepsius 2004: 435). The outcome was two legislative initiatives, called as ‘security packages’⁶⁴. The first ‘security package’ was passed by the German parliament on September 19, 2001, just eight days after the September 11 attacks. It came into being after a very short parliamentary discussion, even though it began to be debated prior to the September 11 attacks (Walter 2007: 5). As will be seen in the following section, the most fundamental changes came with the provision, which revoked the immunity of religious groups and charities from investigation or surveillance by authorities. Given the fact that these organizations were mostly established by migrant-origin groups, it is worth analyzing this change in the course of this research.

Just after preparing the grounds for the implementation of the first ‘security package,’ the government started to discuss the second ‘security package’. On 9 October 2001, the Christian Democrats issued a Motion including very stringent measures against migrants (BT-Drs. 14/7065). This Motion was supported by a much more rigid Resolution of the Bundesrat regarding asylum and immigration issues. More precisely,

- [The Resolution] requested the Government to stop issuing visa generously; in cases of doubt, visa should be denied, not granted.
- It demanded that special provision be made with respect to nationals of States known or suspected of supporting international terrorism; applicants for visas should be fingerprinted, and their data kept for an indefinite period.
- In order to facilitate integration of immigrants, Parliament was requested to introduce mandatory integration courses. The resolution held that immigrants should be barred from secure legal status if they failed to participate in the courses;
- It proposed to ensure that non-nationals threatening the security of Germany (e.g. through engaging in terrorist or extremist activities) were deported and removed from the country. Applications for judicial review should not hamper execution.

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⁶⁴ These packages were also called ‘Otto Catalog’, as they were pushed forward mainly by Otto Schily (Oehmichen 2009: 176ft).
- It urged that non-nationals publicly approving of terrorists acts be deported without delay;

- It proposed to curtail protection against removal under Sec. Foreigners Act 1990. Provision should be made that protection against removal did not apply if the aliens had been sentenced to imprisonment for two years or more.

- Finally, the resolution requested that provision be made to overcome barriers to actual removal. If non-nationals declined to co-operate, authorities should have the power to arrest them in order to make them co-operate. Authorities should also have the power to search aliens unwilling to cooperate (Davy 2007: 204-205).

As will be detailed in the following pages, some of these proposals were rejected; but others were included into the scope of the second ‘security package,’ or also called Act for the Fight against International Terrorism (Gesetz zur Bekämpfung des Internationalen Terrorismus, Terrorismusbekämpfungsgesetz – hereafter: second ‘security package’), which was adopted on January 1, 2002. It was passed through absolute majority of votes from all parties, again, in a very short time. Its main aim was preventing future attacks (Davy 2007; Lepsius 2004; Rau 2004), namely, ‘to ensure that the security authorities will be able to identify terrorist activities and in particular preparations for them, at the earliest possible stage’ (Stock and Herz 2010: 26). In line with this aim, it amended various statutes. Mainly the Criminal Code, the Asylum Act, the Foreigners Act and other Acts governing identity cards and passports as well as telecommunication became subject to changes (Rau 2004; Bender 2003). Consequently, around 100 regulations in 17 different statutes and 5 statutory orders were reformulated (Lepsius 2004: 441). Furthermore, with these amendments the power of federal bodies, including the BfV, the BKA, the BGS, the Federal Intelligence Services (Bundesnachrichtendienst: BND), the Customs Criminological Office (Zollkriminalamt: ZKA) and the Military Counter-Intelligence
Service (Militärischer Abschirmdienst: MAD) was enormously expanded. This second ‘security package,’ which was initially limited to 5 years of application, was extended for more 5 years after an evaluation process that took place in 2006. Thereafter, it was supplemented by the Counter-Terrorism Supplement Act of 2007 (Gesetz zur Ergänzung des Terrorismusbekämpfungsgesetzes), which considerably reinforced the existing preventive measures.

In the light of these changes, it is rightfully asserted that unlike the previous package, which restructured the existing laws within a limited scope and cannot be totally regarded as a direct response to the September 11, second ‘security package’ affected wide range of issues and was adopted as a response to the September 11 (Rau 2004: 317).

Moreover, contrary to the first one, which emphasized the repression of terrorist organizations and threats, the second one placed the focus on prevention. Yet, what is more striking and applicable to both packages is that, first, ‘unlike previous anti-terror laws, these legislative undertakings were no longer restricted to criminal law and criminal procedure’ (Oehmichen 2009: 240). Second, both of them were adopted in a very short time and ‘bypassed the lengthy procedures that would normally have accompanied any measures involving restrictions on civil liberties, including government’s negotiations with leading interests groups, political parties and expert committees’ (Hogwood 2004: 10). As will be detailed below, the main changes are seen in the area of Asylum and Foreigner Law; this is mainly because the guiding approach was to detect and deter terrorist activities at the possible earliest stage and prevent Germany from becoming a ‘safe heaven’ for terrorists (Rau 2003: 7ff).

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65 The broadening power of the intelligence agencies has been heavily denounced on the ground that this runs counter the principle of separation (Trennungsprinzip) that has to sustain the distinction between police and intelligence agencies (Oehmichen 2009: 242).

66 To update, recently, in June 2011, it was further extended for four years.
Under this specific circumstance, which was marked by heightened security concerns and convergence of new counter-terrorism agendas with that of migration, the second stage of the voting of new immigration law was given start.

4.4. Second Stage of the Voting for the New Immigration Act

By the beginning of 2002, after the implementation of the ‘security packages’, the political agenda, again, centered on the new immigration law (PG₁; BG₁). As mentioned before, the draft bill submitted to the Parliament in August 2001 was rejected by the main opposition groups, namely by the Christian Democrats. Following this, Otto Schily had to make some modifications, or better to say give some concessions to reach a compromise with the opposition. The new bill was presented in Bundestag in March 2002, and it was approved with the votes of the SPD-Green coalition. Yet, it had to go through in the Bundesrat as well, where the opposition was in majority. The result was; SPD-led governments voted in favor of the bill, the CDU/CSU governments voted NO, and the governments with grand coalition abstained from voting. The problem came with the State of Brandenburg, which was governed by the coalition of Social Democrats and Christian Democrats. These groups could not agree on a unified vote. However, the Bundesrat President Klaus Wowereit (SPD) decided to count Brandenburg’s vote as YES. So the bill was pushed in the Bundesrat with the result of 35 YES votes, 17 NO votes and 17 abstentions (Diez 2006; Green 2004: 126-7). The bill, however, could not enter into force, as the Constitutional Court decided that it was unconstitutional on the ground that the vote of Brandenburg was not unified and, therefore, should have been counted as abstention, ‘meaning defeat for the draft law’ (Kruse et al. 2003: 133). Against the widely held belief, which represented the blockage of the bill as a mere procedural hiccup, certain scholars argue that:
the divisions amongst the Brandenburg delegation in fact give a telling insight into the
depth of political divisions on immigration matters. Certainly, the fragile consensus
allowing the bill to progress as far as it did in 2001 and early 2002 was subsequently
eroded, with party positions on certain immigration issues diverging significantly (Bendel

After the general election held in autumn in 2002, which resulted in the victory of
SPD-Green coalition again, the bill was brought back into the agenda without making
further changes in May 2003. However, the opposition led by the CDU/CSU group having
dominated the Bundesrat during that time blocked the enactment of the bill and asked for
further changes, such as removing the provisions regarding the ‘selection system’, which
they approved in 2001 and the ‘gender-related’ and ‘non-state persecution’ as the ground
for granting refugee status. Following, a long-lasting negotiation process started and
while approaching to the agreement on a revised text, the Madrid attacks happened in
2004. After the attacks, security discussions again dominated the agenda (PG₂). The
Christian Democrats came with a proposal, including a provision, which shall make
expulsion of foreigners easier – namely upon mere suspicion (Schmid-Drüner 2006: 196;
Diez and Squire 2008). Otto Schily also supported this proposal and called for the easier
deportation of ‘suspected’ terrorists and formulation of the new law in line with this
requirement (Deutsche Welle 28 March 2004). He argued that even though the current
crime bill offered the possibility of withdrawal of residence permit, if the foreigner in
question was a security threat to the national security, its implementation had been
problematic and not easy; he further stated that, ‘we have to clear this up. We owe it to the
security of the citizens’ (ibid.). More or less, all political groups pointed to the so-called
loopholes in German migration policy, which were believed to provide easier access and
‘safe havens’ for terrorists (Davy 2007: 217). Even a member of the Green Party stated
that:
We have all seen the effects and the remnants of the Madrid attacks. Many people in Germany are scared. I believe they should be taken seriously…existing loopholes in law ought to be closed (ibid.).

Under such a pressure, the negotiations did not come into end and were blocked once again. Even the coalition government was split up. One the one hand, there were left-wing groups who were, generally, critical over such a huge focus on terrorism and security in the context of migration law (PG₂). However, such critical voices were in minority (Diez and Squire 2008: 575). On the other hand, Otto Schily and the Christian Democrats repeatedly referred to the linkage between terrorism and migration and demanded more draconian measures (PG₂; PG₃). As detailed by one of the interviewee,

The conservative voices regarding migration issue were much more heard during the legislative process of the new immigration law following the September 11 and Madrid attacks. In the face of terrorist attacks, they took the opportunity to shape the agenda in line with security concerns and towards restrictive policies. Otto Schily was always a security-oriented Minister of the Interior, who was unhappy with the freedom of movement discourse and gained opportunity to cut it down in the post-September 11 period (AG₇).

The polarization was not only confined to migration/security/terrorism nexus; there were also disagreements over the implementation of more liberal practices regarding skilled foreign workers. The Christian Democrats continue to resist to the ‘selection system’ and liberalizing labour immigration. However, the Greens underlined the need for migrant workers, especially those of skilled ones and pointed to the aging population of Germany (PG₂). In the end despite the controversy with its coalition partner, Schily went on to ‘formulate the disputed paragraphs of the new law together with the leaders of the opposition parties, leaving out his coalition partner, the Greens’ (Schmid-Drüner 2006: 196). Immediately, ‘compromise’ was achieved between the governing coalition and
opposition; the final version of the bill was approved by Bundestag on 1 July 2004 and by Bundesrat on 9 July 2004. And it took effect on January 1, 2005 under the title of Act to Control and Restrict Immigration and to Regulate the Residence and Integration of EU Citizens and Foreigners (Gesetz zur Steuerung und Begrenzung der Zuwanderung und zur Regelung des Aufenthalts und der Integration von Unionsbürgern und Ausländern (Zuwanderungsgesetz) – hereafter: Immigration Act). This law integrated all the amendments stemming from the ‘security packages’ and added new dimensions to the security-related measures. It was further amended to transpose several EU directives into national law with the Act to Implement Residence and Asylum-Related Directives (Gesetz zur Umsetzung aufenthalts- und asylrechtlicher Richtlinien der Europäischen Union – hereafter: Amendment Act) on 28 August 2007. The following sections will analyze not only this new Immigration Act, but also other relevant amendments concerning migration issue, especially those put forward by the first ‘security package’. Again, the main aim is to unpack whether the linkage between security, terrorism and migration has been institutionalized in the post-September 11 practices. In doing this, the following pages will detail the practices again under the two headings, namely external and internal securitization.

4.5. External Securitization

The previous chapter showed that the practices targeting would-be migrants were already securitized in relation to terrorism at the EU level. Given the Europeanization and harmonization processes regarding these practices, member states are expected to internalize this very same securitization at the external sphere. However, there are also significant nation-specific developments that are to affect the external securitization. In this context, the following section will elucidate how Germany has shaped its outward-directed
practices particularly in relation to terrorism, though this analysis will aim to analyze the changes as well as continuities in a European context.

4.5.1. Practices Governing the Entry/Admission of Migrants

Under the current German visa system, there are two kinds of visa: one is issued for short-term stays and called ‘Schengen Visa’ (or C-Visa) and the other is granted for long-term stays under the title of ‘national visa’ (or D-Visa). As detailed before, regarding the former, third-country nationals are required to have Schengen Visa for stays up to 90 days per six-month period starting from the initial date of arrival. Nationals of EU member states, the EEA, Switzerland, Australia, Canada, Israel, Japan, New Zealand, the Republic of Korea and the US do not need a Schengen Visa in order to enter Germany. The latter, the national visa, is concerned with stays of more than three months or stays for employment, study or family-reunification purposes. This national visa has to be converted into (temporary) or (permanent) settlement once the holder has arrived in the country (Auswaertiges Amt 2012). Again, the EU, EEA and Swiss nationals are exempted from that requirement. Citizens of Australia, Canada, Israel, Japan, New Zealand, the Republic of Korea and the US are allowed to apply for a long-term stay within Germany once they entered the country without visa.

As explored previously, the post-September 11 changes at the EU level relating to short-term stay demonstrated how visa policy was depicted as an important counter-terrorism tool. Parallel to this securitization at the EU level, Germany also restructured its visa policies (concerning both short and long-term stays) in the light of the post-September counter-terrorism approaches. Firstly, in line with the second ‘security package’, new grounds were laid down to deny issuing visa to those, who pose a threat to the security of Germany; more specifically, who ‘participate in acts of violence or publicly incite violence
in pursuit of political objectives, or belong to an organization, which supports international terrorism’ (BMI 2012). However, the amendment also reserved that denial of entry was based on ‘facts proving that the alien participates in an organization supporting international terrorism or that alien supports such an organization’ (Foreigners Act 1990: Sections 8 (1) (5) and 47 (2) (4); emphasis added). The new Immigration Act went further and provided that denial of entry depends on ‘facts justifying the conclusion that a foreigner belongs to or has belonged to an organization which supports terrorism or supports or has supported such an organization’ (Immigration Act: Sections 5 (4) and 54 (5); emphasis added). The wording of these provisions is contentious in the sense that it is doubtful to what extent and whether ‘the phrase “facts justifying the conclusion that” indeed includes mere suspicion’ rather than proof (Davy 2007: 218). Moreover, given the imprecise definition of terrorism, what the notion of ‘support’ entails in this respect is problematic. As Zöller (2004: 478) states, the notion of ‘support’ may signify wide range of actions or (their omission) but is not further specified in the criminal code. Basically, it may manifest itself in financial, practical/logistical or written and oral support. Thus, the courts are left with the interpretation and jurisprudence provided for some degree of clarification.

In this regard, the danger is that this clause without further clarification could provide extensive ground for denial of entry. Besides, the new Immigration Act foregrounded that before issuing a visa, security authorities are now authorized to conduct background checks in order to determine whether there are any security-related grounds for the refusal of entry into Germany (Immigration Act: Section 73 (1)). For that aim, exchange of data between security authorities, including the BND, BfV, the BKA and ZKA and Germany’s diplomatic mission abroad was facilitated. Parallel to this, for countries of origin determined by the BMI and the Federal Ministry of Foreign Affairs,
pursuant to the Section 73 (4) Immigration Act, the BND, BfV, MAD, BKA and ZKA must be consulted prior to issuing a visa (Immigration Act: Section 73 (1)). Under these circumstances, visa policy was directly framed and invoked as part of counter-terrorism practices.

On the other hand, a relatively liberal approach regarding labour immigration, which was put into place with the Süßmuth Commission’s proposal for adopting a ‘selection system’, was partially dismissed in the context of the Immigration Act. First, one the one hand, the new Act preserved the long-lasting paradigm of ‘recruitment ban’; economic migration was allowed in accordance with the needs of German economy and with the consent of the Ministry of Labour (Immigration Act: Sections 18 (1) and 42). As officially declared, the aim is, ‘to combat unemployment effectively’ (ibid.). However, Diez and Squire (2008:575) assert that:

There is no doubt, for instance, that weaker economic performance in this period brought economic and societal securitizations back into the forefront, as they had been pre-9/11. Yet, the terms of the debate markedly shifted post-9/11, with migration articulated more in terms of a traditional security concern. Thus, […] the direct linkage of terrorism and migration provided a reference point to legitimize more restrictive immigration legislation, where references to economic ad societal security were no longer sufficiently persuasive in the broader political context.

Similar views were mentioned by an interviewee, who involved in the legislation process. In particular, she stated that in the post-September political climate, whereby German agenda was occupied by terrorism, traditional security concerns, provided a suitable ground to push for restrictive labour immigration practices as well’ (PG₁). Yet, it should be also noted that, in the aftermath of recent economic crisis, the voices against further labour immigration have been invoked more with a reference to societal security concerns. Specifically, the opponents link migration to rising unemployment among
‘native’ population; thereby proposing a more restrictive stance (AG$_2$). It was stated by an interviewee that ‘even the trade unions say we do not want immigration; we have to first look for job opportunities for German workers’ (BG$_1$). Therefore, economic and societal security concerns came back to the agenda. On the other hand, the Immigration Act facilitated the entry of highly qualified workers, including professionals, academics and researchers, as long as they have an actual job offer (see Immigration Act: Sections 19-42). In this context, a selective securitization reflected in a liberal approach towards ‘economically-beneficial’ groups, shaped labour immigration practices of Germany.

Regarding the family reunification, the Immigration Act reiterated the approach of the former Foreigners Law of 1990 by inserting the grounds for denying the right to family reunification on security grounds. Specifically, under the section 28 of the Immigration Act regulating subsequent immigration of dependents to join a German national, it is stated that there should be no reason for expulsion on the side of foreigner, who wishes to reunite with his/her spouse in Germany. As will be detailed later, the grounds for expulsion include concerns relating to public security and by extension, terrorism; hence it is still possible to detect the securitization of migration in relation to traditional security concerns.

Indeed, this securitization has become much more apparent and furthered by the transposition of the Family Reunification Directive (2003/86/EC) of 22 September 2003 under the 2007 Amendment Act. As analyzed in the EU chapter, this Directive emphasized also the necessity to restrict family reunification on public security grounds. More precisely, it made clear that this right might be refused, ‘if a third country nationals belongs to an association which supports terrorism, such as an association or has extremist aspirations’ (Council of the European Union 2003d: paragraph 14). By this way, an explicit securitization in relation to terrorism in German politics was driven by the EU level developments. However, it should be also noted that member states are not required
to apply this clause; namely the monopoly of member states was preserved. In this context, contrary to the declared aim of this Directive (that is to provide third country nationals with the higher standard of rights) critics argue that given the ongoing-discretion reserved to member states, the Directive failed to promote the intended purposes and preserved the status quo of national security considerations (Schmidt 2006).

Another point, though not specifically and directly related to terrorism, is that with the transposition of the Family Reunification Directive into German national law, Germany, as a forerunner of this provision, may require family members to comply with integration measures – that is being able to communicate in the German language at least on a basic level -, before and after their arrival (Amendment Act: Section 30 (1)). Hence, pre-departure control mechanisms were also integrated into the German system. Against this measure, one of the interviewee commented that,

This measure is not related to family relations at all; basically, it is a hidden device to restrict family reunification. And it is discriminatory in the sense that it is applied to the nationals of certain countries. So I think the Dutch version and also the German version of making remote language tests is unnecessary for the family reunification. It makes much more sense to learn the language once you are in the country. You can have more opportunities to practice it and fewer difficulties to learn it (AG₇).

In a similar vein, another interviewee stated that: ‘many people say that this change has made against Turkish people. This is closely related to the fact that following the recruitment ban, many Turkish people came to Turkey through family reunification, which remained as the only channel for “legal” immigration into Germany’ (NSOG₁).

Lastly, the pre-September 11 period already demonstrated that entry-barriers to asylum seekers (e.g. visa requirements and carrier sanctions) were already in place. In the post-September 11 period, this approach was preserved. Namely, ‘refugees can only file a claim for asylum within Germany; it is not possible to apply for an entry visa for this
purpose’ (Schneider 2009: 34). Furthermore, carrier sanctions were also enhanced in accordance with the EU level regulations.

Hence, practices regarding admission of migrants reflect both continuity and change in the post-September 11 period. On the one hand, in line with the counter-terrorism purposes, admission procedures were further strengthened and securitized. On the other hand, the pre-existing restrictive stance aiming at curbing entry of family class migrants and asylum seekers remained intact. Lastly, not all type of migration was securitized. A more liberal approach vis-à-vis highly qualified migrants was also integrated into the new Immigration Act.

4.5.2. Technologized Border Control Practices

The EU level analysis illuminated that biometrics and databases became a key in counter-terrorism agenda in the post-September 11 period. Germany pushed forward the technologization of border control at national level as well. By amending the Act on Passports (Passgesetz), the second ‘security package’ stipulated for the inclusion of biometric features to travel documents as well as all to ID cards in order to ‘improve identity security in the visa-issuing process’ (BMI 2012a). In this respect, Germany introduced the so-called first generation e-passports including a chip with digital photo as biometric identifier in 2005. The second-generation e-passports including two fingerprints on the chip were also introduced in November 2007. Furthermore, following the 2007 Amendment Act, the legal ground for collecting fingerprints of applicants for long-term national visas was established. The main aim of the usage of biometric features, as stated by BMI in various statements, is to verify travelers’ identity; thereby preventing the entry of terrorists (see BMI 2008/2011). As some of the perpetrators of the September 11 had used forged documents, inclusion of biometric identifiers was justified by the BMI as an
important preventive measure in the fight against terrorism (BMI 2012a). However, certain interviewees and scholars argue that inclusion of the biometrics was also driven by the quest to ‘fight’ against irregular immigration (SEG₁; AG₁; Oehmichen 2009: 242). More precisely, Oehmichen (2009: 242) contends that:

These amendments seem to actually target illegal immigration rather than terrorism.
Forged passports present serious problem in the fight against illegal immigration;
inconspicuous terrorist sleepers with no criminal records will have little reason to forge their identity cards.

Whether as a counter-terrorism measure or as a way to stem irregular immigration, biometrics represents an important signifier of the securitization of migration.

Another amendment stemming from the second ‘security package’ came up with the modifications of the Act on the Central Register of Foreigners (Ausländerzentralregistergesetz). With that change, as explained by the BIM (2012b),

The AZR, which currently only being includes data on visa applications, is being expanded into a database on visa decisions in order to improve checks of incoming travelers. Law enforcement authorities now have improved access to the database, for example when conducting checks on persons […] The possibility to gather information on groups of persons who share certain characteristics, without knowing all their personal information, was expanded, and authorized agencies which previously had to write to the Central Register for information were granted online access.

Shortly, utilization of biometrics and extension of the the scope of databases signify a clear convergence between migration and counter-terrorism practices. As already foregrounded, this securitization process was furthered by the EU level developments of which Germany was the zealous supporter.
4.5.3. Militarized Border Control Practices

As mentioned in the analysis of pre-September 11 period, the BGS, now Federal Police, became increasingly modernized and empowered with the aim of protecting external borders, i.e. Eastern borders, against irregular entries. In the wake of the September 11, pursuant to the Article 6 (1) of the second ‘security package’, its power and competences were expanded further. According to the new section, paragraph 2 (3) of the Federal Border Guard Act (Bundesgrenzschutzgesetz), the BGS’s scope of competence within the border zone was widened in a way to include an area of up to 50 kilometers landward of the territorial sea limit (see Rau 2004: 332). Furthermore, if further extension is necessary to ensure effective control of sea borders, additional extension – up to 80 km from the 12-mile boundary - may be allowed by a statutory order issued by the BMI. Parallel to this, the discretion of the BGS was broadened as well. Article 6 (2) of the second ‘security package’ established that the BGS would have now the authority to ask the identification documents of those persons, who were believed to provide necessary or relevant information for ensuring its task (see Federal Border Guard Act: Section 22). This control became limited to the documents that the person in question carried with. Besides, its competence in maintaining and restoring security on board of German aircrafts was enlarged. Before the amendment, the jurisdiction of the BGS was restricted to the respective airfield ground. Following the changes, armed officers of the BGS were empowered to check identification documents and to ‘accompany planes crossing German airspace’ (Haubrich 2003: 16).

Indeed, these amendments have added minimal changes to the securitization process in this field, as most profound changes had been already done under the influence
of EU level developments, particularly in accordance with the Schengen system. As Gruszczak (2010: 6-7) states that:

- the Schengen innovation consisted in the introduction of free movement of persons, without any checks at internal borders, at the price of strengthened and detailed control at external border crossing points but also eventual stopping within the Schengen area by mobile patrols connected to the Schengen Information System databases.

More specifically, as German Eastern borders were also external borders of the EU prior to the 2004 enlargement, Germany had already instated significant amount of resources and practices in controlling its Eastern borders. Besides, even before the September 11, authority of border police was continuously extended by the amendments that empowered police of the States or the BGS to conduct identity checks without prior suspicion (Lepsius 2002: 14). Similarly, long before the September 11, especially Germany’s border with Poland came to be subject to the intense surveillance and militarization practices in order to prevent irregular migrants (SEG₂). In that sense, even though this extension of the BGS’s power can be attributed to the aim of averting dangers that hamper border security, its linkage with the counter-terrorism agenda is less relevant (Schmal 2004: 113; Rau 2004: 333). Therefore, similar to the Frontex, despite the reference to fight against terrorism in expanding its power and competences, the main driving force seems to be ‘fight against irregular immigration’ and controlling external borders more effectively, - as asserted by a security expert (SEG₁). Hence, the September 11 and subsequent attacks do not constitute a radical break; rather they ignited the implementation of certain practices, which have been already in the making and which have been embedded in the broader policy framework dominating the EU.

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67 Another important point is that the Article 2 (3) of the CISA explicitly allowed member states to exercise their police powers within their territory by stating that: ‘The abolition of checks on persons at internal borders shall not affect the provisions laid down in Article 22, or the exercise of police powers throughout a Contracting Party's territory by the competent authorities under that Party's law, or the requirement to hold, carry and produce permits and documents provided for in that Party's law.'
4.6. **Internal Securitization**

As foregrounded in the course of the EU level analysis, the internal control practices have been extensively under the control of member states, though, in the post-September period, the EU adopted certain legally binding rules and non-binding guidelines. The analysis demonstrated further that the EU’s involvement in this field internalized the member states’ security-oriented agendas. Especially the so-called traditional migration countries pushed forward a more exclusionary approach at the EU level. Germany, as being one of those traditional migration countries, readapted also its internal control practices particularly in accordance with the counter-terrorism purposes and measures foregrounded by the ‘security packages’. The remainder of this section will unpack the Germany’s practices directed towards ‘migrants’ inside the territory and try to assess the securitization practices in this field following the September 11 and subsequent attacks in Madrid and London.

4.6.1. **Internal Surveillance Practices**

As one of the interviewee stated that given the ‘profile’ of perpetrators of the attacks in New York, Madrid and London, surveillance of Muslim migrants/communities became a visible trend in Germany (PG₁; see also Topal 2008). When one looks at the ‘security packages’ and the following Immigration Act, it becomes clear that internal control of Muslim ‘migrants’ turned into a center piece of the counter-terrorism strategy. The following pages will detail the practices put into place in this field.

4.6.1.1. **National Security Vetting Process and Widened Data Exchange**

As in case of visa issuing practices, cooperation between migration and security authorities was enhanced in the course of issuing and renewing residence permits in order to
‘prevent terrorist from residing in Germany’ (BMI 2008: 162). More precisely, with the amendment by the second ‘security package’ to the Federal Law for the Protection of the Constitution (Bundesverfassungsschutzgesetz), prior to issuing or extending residence permits, migration authorities became obliged to pass on personal data to the authorities of the BfV, if the person in question is presumed to be belonging to a terrorist organizations or pose a threat to the constitutional order on the basis of facts that justify this assumption (Federal Law for the Protection of the Constitution: Section 18 (1)). Against this change, critics argue that it is not clear whether migration authorities are competent to assess the ‘existence of a threat to the constitutional order’ (Schmahl 2004: 112).

This approach was broadened by the Immigration Act, particularly following the adoption of the 2007 Amendment Act. To reiterate, the Long-Term Residence Directive under Recital 21 laid down that member states shall be able to check the person, who ‘intends to exercise his/her right of residence in its territory, in order to ensure that the person concerned does not constitute a threat to public policy, public security or public health’. Accordingly, under Section 73 (1) of the Immigration Act, foreigners authorities were allowed to consult with security authorities, including the BND, MAD, ZKA, the State Office for the Protection of the Constitution, the State Office of Criminal Police or the competent police prior to issuing and extending residence permits. By this way, the application is to be checked by these security authorities for any anti-constitutional activities. Most prominently, Section 73 (1) and (2) of the Immigration Act laid down that, even after a resident permit has been issued, migration authorities have to be informed by security authorities immediately about any security concerns. In this context, the use of data, which was traditionally limited to residence permits, was widened. More precisely, the data may, now, be used not only to verify document’s authenticity and establish one’s identity, but also it may be stored, passed on and used by security authorities in pursuit of their tasks.
Relying on these clauses, migration authorities in some of the States obliged migrants from specific countries to ‘go through an additional, particularly stringent, national security vetting processes’ in order to extend their residence permits (Moeckli 2008: 179).

For instance, in Bavaria, ‘a special security evaluation questionnaire’ has to be filled by third country nationals for a residence permit, if these applicants are belonging to those states from where ‘potential perpetrators of terrorists acts originate’ (ibid.; see also BR-Drs. 14/11340). However, the list of these states was not made public due to the national security concerns (see BR-Drs. 14/11340). Similarly, in Hamburg and Saxony, applicants for residence permits, who originated mostly from Arab and African states, came to be targeted by the same security vetting procedure, including automatic background checks by security authorities or special questionnaire to be filled by the applicant and later passed on security authorities (see Die Welt 18 February 2004; Asylmagazin 2005). More recently, North-Rhine-Westphalia State Ministry of the Interior applied similar procedures to all students and academics coming from Muslim countries, who wish to extend their residence permits (SEG₁). These persons were questioned on their beliefs (ibid.). Criticisms were leveled against these practices and certain academic institutions openly expressed their discomfort with such kind of security tests. For instance, Marianne Ravenstein, the vice-chancellor of the University of Münster, which is the first university in Germany to oppose this practice, drew the attention to the discriminatory character of the test, and stated ‘students and academics go to this decisive test completely unsuspecting’ and ‘deprived of any legal advice’ (Fekete 2009b: 16).
4.6.1.2. Ban of Religious Associations and New Grounds for Prohibiting Foreigners’ Organizations

As mentioned before, the first ‘security package’ introduced crucial changes concerning the status of religious and foreigner organizations. The first one is the elimination of the so-called religious privilege (Religionsprivileg), which was previously ensured by the Act Governing Private Associations (Vereinsgesetz) dating back to 1964. Before the amendment, Section 3 of the Act prohibited all associations if their activities and aims were against the existing laws, constitutional order or the spirit of international understanding. However, in line with the so-called religious privilege, religious organizations, which supported public religious practices, were exempted from the scope of this prohibition (Act Governing Private Associations: Sections 2 (2) (3)). Consequently, prohibition of religious organizations or communities was not possible, even they were defined as ‘extremists’ and conflicted with criminal laws, constitutional order or the spirit of international understanding. The purpose, here, was to keep religious associations exempt from administrative interference, since those associations could (and can) rely on Article 4 of the German Constitution guaranteeing freedom of religion\(^{68}\) (Davy 2007: 201).

However, this situation changed following the amendment by the first ‘security package’ and it became possible to ban religious organizations and communities if they are believed to pursue extremist goals. Accordingly, following organizations were banned:

‘Caliphate State’ and supporting organizations (on 12 December 2001), ‘Al-Aqsa e.V.’ (on 5 August 2002) and ‘Hizb-ut Tahrir’ (on 15 January 2003), ‘Yeni Akit GmbH’ (on 25 February 2005), and “YATIM Kinderhilfe e.V.”, a follow-up organization of ‘Al-Aqsa e.V.’ (on 5 September 2005) (see BfV 2008: 20-23). Even though this amendment was

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\(^{68}\) Article 4 of the Basic Law states that: (1) Freedom of faith and of conscience, and freedom to profess a religious or philosophical creed, shall be inviolable; (2) The undisturbed practice of religion shall be guaranteed'.
triggered by the September 11, it was not solely motivated by it (Rau 2004: 316; Lepsius 2002: 6). This is mainly because; the elimination of ‘religious privilege’ had already become a concern in 1986 to deal with religious organizations, which were presumed to mask their extremist goals under performing their faith (Lepsius 2004: 440). Yet, in the meantime, it was dismissed by the former Attorney General Kurt Rebmann on constitutional, practical, and legal grounds (Rebmann 1986: 291). It is clear that the September 11 provided a suitable opportunity to enforce this measure in a much easier way.

Furthermore, the second ‘security package’ broadened the possibility to prohibit foreigners’ organizations by the way of amending Section 14 of the Act Governing Private Associations. According to amended Section 14 (2), foreigners’ associations can be banned ‘inter alia: to the extent that their objective or activity

(1) promote endeavors outside the federal territory the objectives or means of which are incompatible with the basic values of a state order respecting the dignity of man;

(2) support, advocate, or are to produce the use of force as a means for the enforcement of political, religious or other interests;

(3) support associations within or outside the federal territory that cause, advocate or menace with attacks against persons or things’ (Rau 2004: 337).

On the other hand, associations composed of EU citizens fall outside this provision (see Act Governing Private Associations: Section 14 (1) (2)). Critics argue that targeting only foreigners’ organizations in the scope of this change, gives the impression that they are more prone to involve in terrorist and criminal activities (Schmal 2004: 100).
4.6.1.3. Intensified Surveillance over Mosques and Imams

In the post-September 11 period, another approach becoming dominant to combat terrorism and ‘radicalization’ is the increasing surveillance practices of the BfV over mosques and imams. This was also made possible by the second ‘security package’, which extended the BfV’s scope of competence and thereby ‘giving it the authority to lead its own investigations and […] increased law enforcement capacity’ (Miko and Froehlich 2004: 6; see also Lepsius 2004). More precisely, the second ‘security package’ amended by the Counter-Terrorism Supplement Act of 2007 expanded the competences of the BfV further. With that change, under Section 8a of the Act on the Federal Office for the Protection of the Constitution, the BfV was allowed to collect data on anti-constitutional activities relating to ‘incitement to hatred or arbitrary measures against parts of the population’ or ‘the furtherance of violence through attacks on human dignity by malicious decrying or defamation.’ However, it should be also noted that this approach was also backed by the EU Counter Terrorism Strategy. To reiterate, this strategy under the ‘Prevent’ strand placed a strong emphasis on the surveillance of locations, e.g. places of religious training and worship to counter ‘violent radicalization’ and recruitment of young Muslims.

In this context, Germany put enormous emphasis on the monitoring of the so-called fundamental imams and mosques. The aim is to ‘check’ how teaching and activities of imams are compatible with the principles of democracy, human rights and rule of law; whether these imams are adding fuel to the ‘radicalization’ of Muslim youth; or Germany is importing the so-called hate-preachers into the country (SEG₁). These concerns were also well documented by a report of the BfV stating that mosques and fundamental imams are important actors in radicalization process; ‘[t]heir wide range of

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69 See for detailed analysis, Davy (2003); Hoffmann-Riem (2002); Huber (2002); Marx (2002); Kugelmann (2003); and Renner (2003).
Islamist-oriented educational and support activities, especially for children and adolescents from immigrant families, are used to promote the creation and proliferation of an Islamist milieu in Germany…which could also form the breeding ground for further radicalization’ (BfV 2005).

Similarly, following the broadening investigative powers of the Federal Police, police raids on mosques intensified in the aftermath of September 11 and the following attacks in Europe. For instance, on 13 December 2002, an intensive police raid was conducted on mosques and Muslim organizations in Stuttgart, Manheim and Freiburg during which almost 167 worshippers became subject to check and detention and this was justified by police ‘on the grounds of the danger posed by Islamic terrorism and on the basis of a suspicion that false passports were being manufactured and distributed at ‘particular Islamic meeting places’ to aid ‘a network of Islamic extremists’ (Fekete 2009a: 53). However, critical voices point to the negative impacts of these practices on Muslim communities. For instance, Islamic Community officials (Islamische Gemeinschaft), stated that since the September 11, mosques have faced intensified control and search practices, which have been causing unnecessary mistrust against visitors of the mosque among non-Muslim neighborhood (Karakaşoğlu et al. 2006: 149). Besides, it is also added that this approach tends to generalize all Muslims as ‘undemocratic, oppressive, and anti-Western’ (Boukhars 2007). It is further contended that ‘stigmatizing non-violent Islamists through exclusionary policies, aggressive surveillance and indiscriminate mosque raids’ cannot solve problem of ‘radicalization’; rather amplify the breeding grounds for ‘radicalization’ of those who are demonized, humiliated and alienated in the face of these policies (ibid.).

70 This was also expressed by imams and Muslims migrants in a seminar held in one of the mosque of Hamburg on 23 April 2009.
4.6.1.4. Grid Search (Rasterfahndung)

Grid Search is basically defined as a method allowing ‘for comparison by machine of personal data related to individuals fulfilling certain presumed characteristics of criminals with other data in order to exclude individuals not under suspicion or to identify individuals who meet other characteristics significant to the investigations’ (Rau 2004: 339; see also Kühne 2006). The rationale behind the grid search is that personal data is not collected on account of individuals’ behaviors which are purported to be dangerous, but according to certain characteristics, such as nationality, age, or membership of specific political group or religious communities. In this sense, it serves the logic of preventing possible threats. In fact, grid research is not a new method in Germany; previously, it was used to detect members of the RAF.71 After that, it was not invoked until the September 11 attacks happened. With the amendment of the Code of Social Law” (Sozialgesetzbuch), introduced by Article 18 of the second ‘security package’, social security agencies became obliged to transmit all information to the security authorities whenever there is a need of grid research. This opened the way for implementing this practice in order to detect the so-called ‘sleepers’ in Germany. This aim was clearly asserted during the Permanent Conference of the Ministers of the Interior, held on 18 September 2001 in Bremen. Also, Manfred Klink, who headed the post-September 11 ‘Special Construction Organization USA (Besondere Aufbauorganisation USA) in the BKA and had been dealing with the RAF and international terrorism for three decades, stated that ‘We reactivated the Rasterfahndung, which has been in our drawers for some time now’ (Szyszkowitz 2005: 44).

However, the grid search was applied differently in the post-September 11 period. Before the September 11, it could be used as long as there was an ‘imminent danger’

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71 For a detailed analysis on the utilization of this method against RAF members, see, e.g., Baumann (1986); Rogall (1985) and Bausback (2002).
(gegenwärtige Gefahr) – that is ‘a higher degree of danger, requiring a particular proximity, and probability of the damaging event’ under general German Police Law (Rau 2004: 340; Denninger 2001). Whereas, in the wake of the September 11, this changed considerably; the States started to interpret the term ‘imminent danger’ in a way to use the grid research in a more extensive and flexible way. That is, this method came to be used irrespective of the existence of concrete suspicion. Few among others, following States readapted their legislation in this context and made the application of grid search in this way possible:

- State of Thuringia replaced the prerequisite of the ‘imminent danger’ for the invocation of grid search with the condition that application of grid search is ‘necessary for the preventive fight against crimes of considerable significance’, as in case of Baden-Württemberg and Bavaria;

- Similarly, the States of Bremen and Schleswig, which prohibited the use of grid search for preventive aims in the pre-September 11 period, amended their legislations and thereby having opened a room to use grid search to hinder a ‘danger’ or a ‘considerable danger’ or alternatively ‘for the prevention of a crime of considerable significance’;

- The State of Saxony followed the suit and the use of grid search method became possible, ‘if facts justify the assumption that in the future, crimes of considerable significance will be committed’;

- Another striking example has been witnessed in the state of Saxony where SPD group in the parliament put forward a change in the law providing that ‘the preventive use of the grid search method shall be justified in order to avert an ‘abstract danger’ (see Rau 2004: 340-341).
As the examples above demonstrate that, the scope of implementing the grid search was widened. However, the States encountered difficulties in its practical implementation. The most important one was the determination of criteria according to which data was collected. In other words, there emerged differences relating to content of the criteria among the States (Kant 2005: 19). As a response to this, on 26 September 2001, the Coordination Group on International Terrorism with its ‘Sub-Working Group Grid’ was established to formulate uniform criteria that shall be used to collect data and applied at federal level. And the following criteria were formulated ‘age: 18-40, male, (former) student, resident in the regional state the data was collected from religious affiliation: Islam, legal residency in Germany and nationality or country of birth from a list of 26 states predominantly Muslim population, or stateless person or nationality “undefined” or “unknown”’ (ibid.; see also, Zöller (2004); and Lepsius (2004). In line with these criteria, 31,988 data were collected in cooperation with the Registration Offices (Einwohnermeldeämter – EMAE), universities, employers, as well as health and social insurance agencies (see table below). These data were transferred to the BKA, whereby they were stored under a special database, called ‘sleepers data’ (Verbunddatei Schläfer).
This method not only became unsuccessful to detect the so-called ‘sleepers’\(^\text{72}\); but also attracted great deal of criticisms from universities, NGOs, and left wing parties. Critics asserted that this method was likely to run contrary to the principle of data protection and right to privacy. It was further argued that the fundamental presumption of innocence – laid down e.g. in article 6, paragraph 2 European Convention on Human Rights (ECHR), and in article 14 (2) International Covenant on Civil and Political Rights (ICCPR) - was not respected, as the rationale behind the use of grid search method was

\(^{72}\) The coordination problem among the authorities, the difficulty to compare huge amount of data, the so-called ill-defined criteria as well as quality of the collected data are few among the many deficiencies which resulted in the failure of grid search. This is also accepted by the BKA and other public authorities (Kant 2005; Oehmichen 2009). After re-checking all the suspects, its was officially declared that ‘there were no al-Qa’ida activists to be found at all’ (Szyszkwitz 2005: 50). Erhard Denniger, an expert on constitutional law, described the result of the employment of this method as ‘a huge effort for nothing’ (ibid.).
extensively a preventive approach and based not on concrete facts, but on the notion of abstract danger (PG₃). Furthermore, it was posited that the use of the grid search without existence of concrete danger or imminent danger disregarded the principle of proportionality (ibid.). Because according to this principle, ‘the existence of a mere danger or even of an “abstract danger” usually is not regarded sufficient in order to trigger police powers vis-à-vis third persons’ (Schmal 2005: 115).

Most dramatically, it was asserted that it was against the principle of non-discrimination on the basis of race, national origin or religious view, - a principle which is enshrined in Article 14 ECHR, article 2 (1) and 26 ICCPR. As mentioned above, thousands of data were collected according to certain criteria including ethnicity, religion, and nationality. In this process, those, who were mostly young, male Muslims, were targeted by the screening and profiling practices and subsequently by the arrest and interrogation. Besides, asylum seekers from Arab and African countries were included into the scope of this data collection process (Szyszkwowitz 2005: 50). However, German courts upheld the grid search method in some cases and justified its discriminatory character (Zöller 2004: 488). For example, the court of appeal in Düsseldorf held that,

in search of so-called “sleepers” of Islamic terror organizations, the circle of persons that has to submit to a grid search has to be definable and restricted. Only personal data of citizens of suspicious countries of a specific religious group (e.g. Muslim persons) are allowed to be passed on, not data of German citizens that are neither Muslim nor born in a suspicious country (Lepsius 2004: 453)

Yet, in 2006, the Federal Constitutional Court put the last word concerning the application of the grid search by declaring that ‘prerequisites for a preventive grid search…are the existence of facts from which one may reasonably draw the conclusion that a preparation of a terrorist attack is going on or that persons in Germany keep
themselves ready for a terrorist attack in Germany or abroad’ (Walter 2007: 13). Hence, its use for preventive purposes was dismissed.

To conclude, under the rubric of counter-terrorism, discriminatory application of all these internal control and surveillance practices was justified with a reference to the so-called profiles of today’s international terrorists. This view is reaffirmed by various scholars and was put forward by the interviewees. For example, Moeckli (2010) posits that:

Since the terrorist threat is now generally depicted as being reflective of wider cultural differences, nationality, national or ethnic origin, race, and religion have become the central elements of contemporary terrorist profiles. Immigrants who match these criteria are therefore treated as particularly suspect.

In such a context, deployment of profiling practices is to be justified in a much easier way as a counter-terrorism tool. For instance, Ellmann (2003: 705) argues that:

[i]n the context of terrorism, it is similarly impossible to ignore the fact […] that we have been attacked by a Muslim terrorist organization with roots in Arab states. This fact, and people’s reactions to it, will shape our law enforcement response whether we acknowledge it or not.

In a similar vein, one of the interviewee stated that: ‘If there is a rape case, you search the suspects among young males, not among women. That is why it is logical to look for suspected terrorists among young, Muslim, Arab people’ (AG₄). This approach reveals the post-September 11 approach, which is not restricted to German case; but is appealed across the world, - that is, more surveillance and profiling bring more security. But, as put forward by another interviewee, current surveillance practices create a big problem, because security knows no borders (AS₆). More precisely, the interviewee remarked that:
There is no natural limit for how much security you will have. Because you can never reach full sense of security; so you can never stop increasing your efforts to get full sense of security. And I am working in the area of criminal law and in this area the concept of security is very dangerous. Because it means that police is looking after you. So it is possible that there is no real reason why you are under surveillance, may be just for the reason of prevention. And prevention is also without natural limits. Because anything can happen anytime and you can increase preventive measures constantly. However, you can always say we have not enough of it. Prevention and security are twins (ibid.)

In short, analysis of internal control (surveillance) practices of the post-September 11 period reveals the use of internal control mechanisms (addressing migrants and/or Muslim communities) for counter-terrorism purposes and, therefore, a direct and clear securitization process.

4.6.2. Integration Practices

In Germany, the post-September 11 public and political discussions centered much more on the ‘problem’ of integrating certain migrants and moved towards securitization (AG₃). As in case of the developments at the EU level, this integration’ problem was linked to the issue of terrorism in general and ‘radicalization’ in particular (PG₃). On a closer scrutiny, the BMI depicted integration policy as a remedy to counter these security concerns under the heading of ‘Doing away with the causes of terrorism’ by stating ‘inadequate integration and a sense of being excluded leave young people in particular vulnerable to radical ideas’ (BMI 2012c). Concomitantly, integration practices were represented as part of the preventive security strategy pertaining to all other practices analyzed until now, to combat ‘home-grown terrorism’ and deal with the extremist movements both at intellectual and political level (ibid.).
One important point should be mentioned at the outset. Despite the reference to terrorism or so to say more traditional security concerns in the integration debate, long-lasting societal security concerns relating to welfare state or cultural identity remained intact and even incorporated to this broader securitization process in relation to terrorism. More precisely, as in case of other ‘traditional’ migration countries, e.g. the Netherland, France or Austria, the discourse of ‘death of multiculturalism” became the main figure surrounding political and public discussions on the issue in the post-September 11 period. Recently, the book, titled ‘Germany Does Away with Itself” (Deutschland Schafft sich ab) written by Thilo Sarazin, a member of the board of governors of the German National Bank (Bundesbank), who has since resigned, has fuelled intensive and controversial debates on integration. He argues that increasing migration to Germany reflecting itself in the raising number of ‘underclass’ would lead to decline of Germany’s well-being. Subsequently, German Chancellor Merkel also stated that ‘German integration policies have failed and that immigrants must do more to integrate into society’ (Belkin et al. 2011: 17). Horst Seehofer, the premier of Bavaria and head of the CSU, even declared that ‘Germany is not an “immigration land”’ and further stated that ‘it certainly does not need more immigrants from “other cultural backgrounds”, such as Turkish or Arabic’ (The Economist 22 October 2010).

The following section will elucidate the practices of integration in the light of the post-September 11 developments. As mentioned already, integration issue covers wide range of areas, ranging from education to urban planning. However, as it is not possible to shed light on all these issues in the scope of this research, the main strategies will be delineated. Indeed, the choice of the practices below is in conformity with the IBM’s focus. Namely, integration programmes, citizenship, and German Islam Conference (Deutsche Islam Konferenz: DIK) were defined as the milestone of German integration.
approach (see BMI 2008/2011). The regularization issue was also included into the analysis in order to make the comparison of German case with that of Spain in a meaningful way.

4.6.2.1. Integration Programmes

As mentioned before, owing to the long-lasting paradigm, - that is ‘Germany is not a county of immigration’, Germany had disregarded the issue of integration for a long time, at least refrained from developing comprehensive and structured practices in this field. More precisely, preventing further migration, encouraging ‘voluntary return’ as well as restricting citizenship possibilities constituted the dominant approach until the early 2000s. Besides, parallel to the increasing migration and emergence of the so-called ‘second’ and ‘third’ generation migrants, integration issue came to be defined much more by culturalist terms. Having mostly advocated by Conservatives, and partially codified by the previous Foreigners Act of 1990, the emphasis was put on the importance of learning language, culture and values of Germany. However, when it comes to the early 2000s, the premise of ‘Germany is not a county of immigration’ started to be questioned. This reflected in the Green Card Scheme and the new Citizenship Law. Followingly, the most radical break was introduced by the Süßmuth Commission’s proposal pointing to the necessity of comprehensive integration policies and socio-economic inclusion of migrants. Yet, it also drew the attention to the mandatory integration courses similar to those applied in the Netherlands. The Immigration Act codified most of the proposals of the Süßmuth Commission and came up with a much more comprehensive approach. The most important ‘novelty’ is the introduction of mandatory integration programmes. Section 43 of the Act introduced compulsory integration courses through which new comers are

Chapter 3 of the Act is dedicated to the issue of ‘Promotion of Integration’.
expected to acquire knowledge of language, history, culture and values of German society. It was officially emphasized that these courses intend to give migrants an understanding of the system of government and public administration in Germany, in particular the significance of the *free and democratic order*, *the party system*, *Germany’s federalist structure*, *the welfare system*, *equal rights*, *tolerance and religious freedom* (BMI 2008: 102, emphasis added). Section 44 of the Act laid down that those who come to Germany for employment purposes, through family reunification or in certain cases on humanitarian grounds shall participate in these courses to receive residence and settlement permits. Under Section 44a, obligation to attend integration courses is regulated; and those who are unable to communicate verbally in German language at a basic level; who receive welfare benefits and who have special integration needs are obliged to attend these courses. More precisely, if they do not attend or pass these programs, welfare benefits are to be reduced or withdrawn or their resident permits may not be extended. Furthermore, highly qualified workers, academicians, and researchers are not placed under the scope of these programmes, as they are the ‘wanted’ groups and economically beneficial ones; they are not conceived as burden for the welfare state (AG₂; BG₁). In a similar vein, as in case of visa practices, nationals of certain countries, including the US, Canada, Japan, New Zealand and Australia are not ‘obliged’ to attend these courses. In other words, they may decide to do that on voluntary basis.

These measures were welcomed and celebrated both at political and public levels. One of the interviewee stated that ‘they are revolutionary, for the first time, Germany has acknowledged of being an immigration country officially and developed sophisticated regulations concerning the issue of integration’ (BG₁). Similarly, other interviewees, from

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74 As a brief interface, as detailed in the EU chapter, Germany advocated similar policies at the EU level, particularly during the formulation of the Long Term Residence Directive of 2003. Together with Austria and the Netherlands, it lobbied hard to insert the term integration ‘conditions’ rather than ‘measures’ into the Directive.
academia, NGOs and from right and left wing parties asserted that given the problems of
migrants especially with respect to the language, which is seen to impede their integration
in Germany, these measures should have been put into practice long time ago (AG$_2$;
NSOE$_2$; GCDP; GGP; AG$_8$).\textsuperscript{75}

However, as already detailed in the EU chapter, fundamental criticisms were also
raised against these practices. In Germany as well, these voices pointed to the mandatory
nature of the courses, sanctions built into these measures and most importantly to their
discriminatory character. One of the interviewee from a NGO stated that:

If the aim is to encourage the socio-economic as well as cultural integration of
immigrants, why certain groups are exempted from these courses; they may be also in
need of learning language, culture and history of Germany. It seems that it has been
already taken for granted that nationals of certain countries are regarded not as a
“problematic” group or not having “integration problems” due to the so-called certain
shared values. On the other hand, the law gives the impression that the targeted groups,
including predominantly the nationals of Muslim, Arab and African countries, need to
have a special attention (NSOE$_2$)

Likewise, another interviewee working on integration issues in Germany stated:
The rationale behind these courses and making them mandatory are stigmatizing certain
group of migrants, who are subject to these requirements. Before the enactment of the
new Immigration Act, there were other options discussed in the process; for example
giving people buttress to language courses and incentives to pass the courses. I think that
it is a better idea. It is still in a way mandatory system, but it is not a stigmatizing way to
motivate integration. I think the people living here are very motivated to learn the

\textsuperscript{75} During one of my visit to a Verikom – a Hamburg based association working on integration of migrants and
offering German language courses –, those migrants taking language courses here confirmed this view and
stated that language is a big problem for them; so they find these courses very significant for their integration
into German society.
language. We have done a research on irregular migrants and we found out that many of
them attended courses in Volkshochschule\textsuperscript{76} by paying 50 euro participation fee (AG\textsubscript{8}).

Another interviewee criticized the discrimination pertaining to these programmes,
but also contended that:

Any culture is plural. I mean also the French culture, the British culture, or the German
culture is pluralistic. Because we have been the product of migration process for centuries.
In themselves, every country is not homogenous. Within this context, I think it is important
to redirect this immigration process towards the elimination of social marginalization. And
language is an important factor for that. I mean I would equally support programmes for
multilingual training for instance. In addition to the language of host country, migrants
could be supported to retain their own language. That is equally welcome and it should also
be supported. So there should be no conflict created between integration and the presence
of advantages of multiple language proficiencies, multiple cultures, multiple identities
(AG\textsubscript{3}).

On the other hand, one of the interviewee from the BMI explained the logic behind
this differential application of integration programs with the following words:

Integration programs introduced with the new Immigration Act, I think, are related to our
past experiences with the so-called guest workers, mainly from Turkey and former
Yugoslavia. Although main part of these populations is well integrated, high percentage of
them has still integration problems in relation to language and education. On the other
hand, nationals of exempted groups are mostly highly qualified; they are not experiencing
significant level of integration problems due to their educational background. Therefore,
differential treatment is not only related to ethnic background of migrants; but it is much
more to do with the educational background (BG\textsubscript{1}).

Similarly, another interviewee having involved in the negotiation process of the
new Act explained the differential application of these programmes by stating that: ‘the

\textsuperscript{76} In English, it refers to Adult Education Center.
German government thinks that it is more easier to integrate people from Western countries; as they are supposed to be culturally similar and economically beneficial for German society’ (NSOG₁).

Against this backdrop, the introduction of integration programmes cannot be directly linked to the issue of terrorism. Indeed, the emphasis on knowledge of language and society as a yardstick of integration has entered the agenda before the September 11 period. Besides, as one of the interviewee asserted that the reasoning seems to be much more associated with societal security concerns, namely protecting welfare state and cultural identity (AG₃; see also Guild 2005b; Carrera 2006). This is evidenced in the socio-economic sanctions built into these programmes or in the preferential treatment towards certain group of migrants, e.g. highly qualified migrants or nationals of ‘developed’ Western countries. However, as integration issue by itself has been represented as a tool against terrorism and radicalization, these integration programmes should be read in such a broader context. As demonstrated in the previous section that ‘cultural difference’ became one of the reflection of today’s terrorists, the aim is now to tame and ‘naturalize’ these differences in countering not only emergence of ‘under class’, but also terrorism. More on these practices will be below.

4.6.2.2. Citizenship Practices

As mentioned in the previous sections, the latest reform of the Citizenship Law during the SPD-Green government made naturalization of foreigners easier compare to the previous law, especially by the way of allowing birth-based naturalization, though it also added restrictive conditions to be qualified as German citizens. In the post-September 11 period, it was reformulated in a more restrictive way in conjunction with the Immigration Act. First, the amendments made ‘the right to naturalization dependent upon a proof of
sufficient knowledge of the German language’, legal system, society and living conditions in Germany (Citizenship Law: Section 10 (1); see also Hailbronner, 2010: 8). It is further stated that:

Upon a foreigner confirming successful attendance of an integration course by presenting a certificate issued by the Federal Office for Migration and Refugees [Bundesamt für Migration und Flüchtlinge, BAMF], the qualifying period stipulated in sub-section 1 shall be reduced to seven years. This qualifying period may be reduced to six years if the foreigner has made outstanding efforts at integration exceeding the requirements under sub-section 1, sentence 1, no. 6, especially if he or she can demonstrate his or her command of the German language (Citizenship Law: Section 10 (3)).

In this sense, the exclusionary and culturalist ground put forward in the context of integration programmes was integrated into the citizenship regulations in a more explicit way. Most importantly, as Carrera (2006:87) puts it, obtaining citizenship, by extension gaining secure legal status, was made conditional upon the level of ‘integration’ of migrants. Besides, there emerged a nexus between immigration, integration and citizenship, whereby

Integration is becoming another tool in the hands of the State to force a process of nationalization by which any individual (outsider) aiming to be included in its society will have to mutate into the traditional concept of “us”, and will be obliged to become more like the citizens in order to be treated fairly and equally (ibid. 89).

Secondly and most profoundly, the prerequisite of loyalty to the constitution was introduced. More precisely, according to Section 10 of the amended Citizenship Law, a foreigner shall be naturalized, if he or she,

confirms his or her commitment to the free democratic constitutional system enshrined in the Basic Law of the Federal Republic of Germany and declares that he or she does not pursue or support and has never pursued or supported any activities.
a) aimed at subverting the free democratic constitutional system, the existence or security of the Federation or a Land or
b) aimed at illegally impeding the constitutional bodies of the Federation or a Land or the members of said bodies in discharging their duties or
c) any activities which jeopardize foreign interests of the Federal Republic of Germany through the use of violence or preparatory actions for the use of violence, or credibly asserts that he or she has distanced himself or herself from the former pursuit or support of such activities.

Besides, according to Section 11 of the amended Law, naturalization shall not be allowed, ‘if there are concrete, justifiable grounds to assume that the foreigner is pursuing or supporting or has pursued or supported’ terrorist activities or is subject to expulsion because of terrorist affiliation. The wording of these two provisions was heavily criticized (see Schiffauer 2008). It was argued that in order to invoke these provisions, ‘no specific factual situation must be proved; rather, the mere possibility that a given situation might exist and that certain evidence provides indicators for this indeed suffices’ (Bender 2003 cited in Schiffauer 2008: 60). As in case of other practices, it was again contended that such an approach is based on a logic of prevention, which concerns with ‘abstract danger situations’ (Schiffauer 2008/2011: 55; see also Eckert 2005). In his analysis of administrative practices regarding the decisions taken with a reference to these provisions, Schiffauer (2008) eloquently demonstrates that these elastic formulations have paved the way for excluding citizenship applications on the logic of ‘fact-based indications’ rather than of ‘burden of proof’ as well as for providing limited safeguards to applicants to ‘disprove the suspicion of being anti-constitutional.’

In relation to these amendments, another securitarian measure came after the September 11 is the obligatory background check by security services in order to determine whether an applicant is engaged in terrorist or anti-constitutional activities. This
called for the enhanced cooperation concerning the data exchange between migration authorities and security services (see Citizenship Law: Sections 31 and 32). This is asserted as an important way to ‘prevent extremist foreigners from becoming naturalized German citizens’ (BMI 2008: 115). The BMI stated that those who pose a security threat could not be deported because they have become already naturalized; hence, in order to evade danger from the very beginning, background security checks by the BfV is fundamental (ibid.). It is now required that standard security checks of unconstitutional activities should be conducted before the approval of naturalization. In effect, under the Citizenship Law of 2000, examination of applicants’ loyalty to the constitutional principles of Germany was already activated. However, there was no unified framework that was applicable nationwide. For example, in some of the States, which were mostly ruled by the Christian Democrats, consultation with the BfV was already mandatory before naturalization. In other States, such as in Bavaria, Saxony and Thuringia, this consultation was invoked in cases where there were concrete evidences on the involvement of applicants in activities against the Constitution (Hallbronner 2006: 241; see also Moeckli 2008: 179). Following the September 11 attacks, the trend among the States was to make these checks obligatory. For example, after the September 11, states of Baden-Wurttemberg and Bavaria put forward a proposal, which called for allowing obligatory checks at the federal level. Following the consensus reached in 2005, obligatory security checks in the naturalization process was inserted into the Citizenship Law (Hallbronner 2006: 241). Again, criticisms were raised against the broadening role of migration and security authorities given the fact that they were not authorized to judge whether the applicant in question poses a security threat or involved in anti-constitutional activities (Schiffauer 2008; Bender 2003).
Another salient issue, which has kept the political agenda busy from the 2005 onwards, is the so-called citizenship tests. When Chancellor Merkel took the office in September 2005, she proposed to implement uniform citizenship tests to assess applicants’ loyalty to the constitutional order and values of Germany. Following a heated parliamentary debate, this proposal was not accepted; rather the consensus was reached on the application of a nationwide language test in the course of naturalization process. However, this debate on a citizenship test did not disappear from the political agenda. On the contrary, it intensified dramatically with the introduction of the tests under the framework of the so-called ‘conversation guidelines’ with controversial questions in the State of Baden-Württemberg. The declared aim behind them was to assess the applicants’ conformity with German liberal and democratic order as well as values. Besides, ‘incompatible’ traits of certain migrants, such as forced marriages, intolerance towards different sexual orientations as well as honour killings were asserted as the main reasons stimulating such a practice. These arguments reflected in the words of Günter Loos, Baden-Württemberg Interior Ministry press spokesperson, who stated that:

There have been neutral surveys and studies that have shown there are discrepancies between Muslim beliefs and our constitution -- just think of things like forced marriages, honor killings and the like. If there is a suspicion that the person who wants to become German does not share our fundamental principles and values, then the new interrogation is meant to find that out (Deutsche Welle 5 January 2006).

The discriminatory charter of the test was also found voice in the statement of the Interior Minister of the State at that time: ‘the rules constituted “conversion guidelines” and that the questioning could be extended from Muslims to any individual who appeared

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77 Christian Democrats also drew the attention to the ‘practical’ impacts of uniform citizenship test applicable at federal level. They argued that lack of uniform citizenship test could paved the way for ‘naturalization tourism’, - that is foreigners could prefer the States where the conditions for naturalizations are more liberal (Fekete 2006; see also Perchinig 2010).
to have dubious motives when trying to become a German citizen’ (cited in Fekete 2006). When one looks at the questions of that test, it becomes clear that Muslim migrants were the targeted group. Most importantly, certain questions explicitly link all Muslims with terrorism (NSOE$_2$). Some of the questions are as follows (Furlong 2006):

- How do you view the statement that a woman should obey her husband, and that he can beat her if she doesn't?
- You learn that people from your neighbourhood or from among friends or acquaintances have carried out or are planning a terrorist attack - what do you do?
- Some people hold the Jews responsible for all the evil in the world, and even claim they were behind the attacks of 11 September 2001 in New York. What is your view of this claim?
- Imagine that your son comes to you and declares that he's a homosexual and would like to live with another man. How do you react?
- What do you think of the fact that parents forcibly marry of their children? Do you think such marriages are compatible with human dignity?

As commented by a Turkish local lawyer, Süheyla Ince, ‘I have to prove, by answering these questions, that I'm a “good” Muslim, because it puts all Muslims under a general suspicion of terrorism and insinuates that they're not interested in the values of the German constitution’ (cited in Furlong 2006). Similar views were stated by one of the interviewee as well:

In the wake of September 11, suspicious towards Muslim people has been intensified. Recent practices such as integration and citizenship regulations give the impression that all Muslim are potential terrorists, or their values and traditions are in conflict with German society. Moreover, the political rhetoric and practices imply that only the Muslims or by extension, Turks, and Arabs, are the problematic groups who need to be “normalized” (PG$_3$).
When the debate on the tests of Baden Württemberg continued intensively, the State of Hessen followed the suit and introduced similar citizenship tests in 2006. Again honour killing, forced marriages, the so-called incompatible beliefs of Muslims with German constitution were at the center of the test. Furthermore, some questions were so difficult that made passing these tests impossible. Among 100 questions, one clearly proves this argument: ‘The German painter Caspar David Friedrich painted on one of his most famous paintings a landscape on the Baltic Island Rügen – what is the picture’s motif?’ (Hawley 2006).

These debates should be also read parallel to the EU-wide developments. France in 2003 and the UK in 2005 introduced similar tests to evaluate ‘suitableness’ of the applicants for ‘naturalization’. Similarly, the Netherlands started to apply citizenship tests in 2006 by which applicants’ ‘conformity’ to Dutch values is to be assessed. Alongside these developments and in response to the controversy rising from the tests in Baden-Württemberg and Hessen, the discussion on the uniform citizenship test gained momentum in Germany and in the end parliament adopted the application of a uniform test that has been valid as of September 1 of 2008. This time, questions are relatively more plausible and concentrate on politics, democracy, history, responsibility of man and society, but do not include questions on personal beliefs or conscience. However criticisms have not ended; firstly it is contended that the questions are difficult that can set back the naturalization of foreigners; second these tests are to ratify the idea that foreigners do not have knowledge on democracy and human rights (AG1).

In brief, practices relating to citizenship have continued to be framed along previous years’ culturalist and exclusionary approaches. However, in the post-September 11 period, they were explicitly readapted as a counter-terrorism tool to prevent the naturalization of ‘terrorists’.
4.6.2.3. German Islam Conference (DIK)

Another newly adopted integration strategy in the post-September 11 period is the introduction of the DIK, which started its work on 27 September 2006. In the subsequent legislative periods, it was agreed to continue with the Conference. Consequently, the second and third conferences were held respectively on 17 May 2010 and 29 March 2011.

In the course of the discussions surrounding the Conference, the BMI (2008: 108) explicitly stated that the Conference would make ‘an important contribution to preventive security policy’ as ‘problems with integration in economic/cultural and religious life and involvement in Islamist activities increasing pose difficulties for co-existence.’ It was further pointed out that the Conference would serve to counter ‘both violent and legalistic Islamist activities, thereby helping preserve the security and freedom of everyone in Germany regardless of their faith’ (ibid. 108-109). In its subsequent statements, the BMI (2012c) declared that:

We need to improve the integration of immigrants. We also need an intensive dialogue with Muslims in order to strengthen identification with the foundations of our values and society. With this in mind, the German Islam Conference (DIK) has initiated an institutional process of dialogue (emphasis added).

In such a setting, the first Conference hosted 30 permanent participants, 15 of them from German government and the rest was the representatives of Muslim population, including the Turkish-Islamic Union (Türkisch-Islamische Union der Anstalt für Religion e.V – DITIB), the Central Council of Muslims in Germany (Zentralrat der Muslime in Deutschland – ZMD), the Islam Council for the Federal Republic of Germany (Islamrat für die Bundesrepublik Deutschland – IRD), the Association of Islamic Cultural Centres (Verband der Islamischen Kulturzentren e. V. – VIKZ) and the Alevite Community in Germany. Moreover, as not all Muslims were represented by these organizations, other
independent representatives from private sector, society, and academia were invited. It was
declared that this conference aimed to provide a long lasting framework for the dialogue
and to institutionalize this framework through regular meetings (see DIK 2010a). In doing
this, participants came together under different working groups to discuss the following
issues:

1. The German social system and German values;
2. Religious issues and the German understanding of constitution;
3. The private sector and the media as bridge-builders (DIK 2010b).

A discussion group, called ‘Security and Islamism’ focusing on the issues of
‘internal security, Islamist activities that are directed against the free democratic basic
order and the prevention of Islamist acts of violence’ was also established (DIK 2008). At
the suggestion of this discussion group after its 3rd plenary meeting, the ‘Prevention and
Co-operation Clearing Point’ was set up within the Federal Office for Migration and
Refugees (Bundesamt für Migration und Flüchtlinge –BAMF) in order to build ‘effective
co-operation between mosque associations and police authorities’ (ibid.). More precisely,

it was stated that:

The Clearing Point is a nationwide co-ordination agency, set up to provide an overview of
all co-operation projects between security authorities, Muslim organizations and
multipliers and to support the implementation of these projects.

The Prevention and Co-operation Clearing Point is intended to

- support the setting up of a nationwide network of contacts for security authoritie and
  Muslims,
- provide experts for discussion events and for information exchange,
- support training and further training projects sponsored by the security authorities,
- support information programmes delivered by the security authorities to Muslims,

and provide support in drawing up information materials (ibid.)
This framework clearly links integration issues not only to the counter-terrorism strategy, but also to other practices, e.g. internal control and surveillance practices. This security logic prompted heightened criticisms among Muslims. For instance, one of the important Muslim groups – the Central Council of Muslims (Zentralrat der Muslime in Deutschland – ZDN), boycotted the Conference on the ground that it did not touch upon the real problems, such as ‘Islamophobia’ and discrimination that Muslims face (UPI 2010). Following the third conference, Aiman Mazyek, head of the ZDN, stated that ‘the Islam conference shouldn't be a security conference in disguise’ (Onislam 2011). Most profoundly, it was argued that the Conference has focused extensively on security instead of tackling problems of a sizable minority (ibid.). In a similar vein, Muslim scholar, Armina Omerika criticized the Conference’s approach by stating that the Conference should not become ‘another instrument of security policy’ (Deutsche Welle 30 March 2011). Shortly, even though the Conference could be seen as an important achievement for the integration politics of Germany through bringing representatives of Muslim communities and the German state together for the first time (BG₁), its organizational framework and approach signifies again the convergence of migration and counter-terrorism agendas in an explicit way.

4.6.2.4. Regularization Practices

Compare to other European countries, especially to those of Southern member states, Germany has not been very much keen to apply regularization programmes. Indeed, given the high level of internal surveillance mechanisms, irregular immigration has not been a very silent issue in Germany. One of the interviewee, referring to strict internal control mechanisms, stated that it was very difficult for irregular immigrants to survive in Germany (AG₂). In effect, as will be detailed in case of Spain, Germany has been also
very critical of implementing regularization measures in Southern members, as it is believed this can induce further immigration not only into these member states but also into the EU in general. In other words, as commented by an interviewer from the BMI, ‘regularization is believed to create a new pull factor. That is the position of German government. So we do not do it. If we do it, we implement it in single cases’ (BG₁).

However, the 2007 Amendment Act, for the first time, introduced the possibility of large-scale regularization that was to be applicable to long-term irregular immigrants. Indeed, the decision to grant the right to regularization to those long-term irregular immigrants who have been living in Germany without interruption for six (families) or eight (individuals) years, was initially taken by the States’ Interior Ministers’ Conference in 2006 (see Bleiberechtsbeschluss der IMK 2006). Later, it was taken over by the Immigration Act and became applicable at the federal level. Despite having seen as a promising move towards ‘the integration of foreigners, ‘the preconditions applied to qualification are so strict and exceptions and exclusions in practice so far-reaching’ (Statewatch 2007:19; see also Pelzer 2007). Most profoundly, regarding the issue of securitization, if it is established by migrant authorities that applicants have committed acts that constitute reasons for deportation, their application could be dismissed. As the following section will demonstrate, especially following the September 11 with the second ‘security package’, new grounds for deportation were established in relation to terrorism. In this context, the discretion power granted to migration authorities in deciding the cases, (namely whether the applicants engage in activities leading to deportation) is problematic, as these decisions shall not have to be tested in court (ibid.). This approach reveals that securitization of migration in relation to terrorism has affected wide range of practices in the field of migration and pawed the way for more restrictive tendencies.
To conclude this part, integration practices have been explicitly securitized in relation to terrorism in Germany. A direct linkage and continuum between integration of Muslim migrants and terrorism has been established. Yet, societal security concerns, particularly those relating to welfare state and cultural identity, have remained intact.

4.6.3. Removal Practices

At national level, there has been always a differential treatment between ‘foreigners’ and citizens in the field of removal practices. The latter group has the untouchable judicial status conferred by citizenship rights. On the other hand, the latter group is not immune from the risk of removal. In case of Germany, given the restrictive character of citizenship law and ‘naturalization’ procedures, ‘migrants’ are more vulnerable to the deportation practices, even they were born into and have a long-term residency in the country.\footnote{EU citizens are protected against expulsion under the freedom of movement principle ensured by the EU Law.} This was the case before the September 11 as well. However, the September 11 and subsequent attacks activated new tendencies in order to deal with terrorist or suspected foreigners under removal practices. More precisely, these tendencies include; (1) the introduction of new grounds for expulsion in response to terrorist threat, (2) the introduction of deportation order and (3) the restriction of non-refoulement principle.

4.6.3.1. New Grounds for Expulsion

As discussed already in the EU chapter, member states became more inclined to resort to administrative law rather than criminal law, as the former serves to circumvent the protections pertaining to the latter. In a similar vein, referring to the German practices, one of the security experts stated that:
An important shift came up with the September 11 and subsequent attacks is the change regarding the way to deal with the potential threats within Germany as well as in other Western countries. That is the utilization of foreigners law rather than penal law. Under the penal law, you cannot just say that you are a terrorist and, therefore, you should be removed; you must have evidences, you must have witnesses. And that is very difficult when it comes to terrorism, because people are afraid of being attacked. So the second possibility to deal with foreigners deemed to be dangerous is utilization of foreigners law.

Foreigners law provides an easiest and faster way to get rid of people, who are considered to be dangerous to national security. It enables low level of protection against deportation unlike penal law providing a universal protection before the courts. So there is a strong tendency to use foreigners law rather than penal law to remove potential terrorists from Germany (SEG₁).

Keeping this rationale in mind, Germany introduced new grounds for expulsion in line with Article 11 (8) of the second ‘security package’. Followingly, these grounds were integrated into Section 54 of the Immigration Act. In particular, these grounds, which were directly linked to terrorism, were placed under two headings, namely, regular expulsion and decretory expulsion, as they are empowered differently⁷⁹.

The first one, the regular expulsion (‘should’) is ordered:

if there is reason to believe that the foreigner belongs to or supports a terrorist organization or poses a risk to the free democratic basic order of the Federal Republic of Germany, publicly instigates violence, threatens to use violence or is the leader of an

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⁷⁹ In addition to these two forms of expulsion, there is also an obligatory exulsion. ‘Obligatory expulsion (“must”) is ordered if a foreigner is sentenced to prison or youth custody for at least three years for committing one or more offences with an element of intent, if he/she is convicted of an offence under the Narcotics Act with an element of intent, if he/she is given a non-suspended prison or youth custody sentence of at least two years for civil disorder or rioting, or if he/she is given a non-suspended prison sentence for smuggling people into the country (Immigration Act: Section 53).
incontestably banned organization which has violated criminal law or the free democratic basic order. (Immigration Act: Section 54 (5) (5a)).

It is also applied to those who actively supported terrorist activity in the past or participated in Afghan training camps years ago, even if they do not presently involve in such kind of activities and ‘appear to lead law-abiding lives’ (BMI 2008). Furthermore, the second ‘security package’ introduced the ground for a regular expulsion of a foreigner, if he or she …in the course of an interview which serves to clarify reservations regarding entry or continued residence, fails to reveal previous stays in Germany or other states to the German diplomatic mission abroad or to the aliens authority or furnishes false or incomplete information on key points regarding links with persons or organizations who or which are suspected of supporting international terrorism (Immigration Act: Section 54 (6))

These new procedures for the removal of migrants raised important concerns, again, because of the abstract language of the provisions and the concept of the ‘support’ which are likely to provide competent authorities with a wide decretory power in deciding cases (Zöller 2004: 491). Furthermore, Rau (2004: 355) draws the attention to another loophole within these provisions:

Given that the [provision of regular expulsion] does not require that contacts to international terrorism be proven, one may doubt whether the sharp sword of regular expulsion shall only be permissible if the alien is expressly informed prior to the interview of the security related purpose of the interview and the legal consequences of furnishing false or incorrect information.

Second, with the introduction of the discretionary expulsion (‘can’), migration authorities were allowed to expel the so-called hate preachers, namely those who ‘endorse or promote terrorist acts’ and ‘incite hate against sections of the population’ (Immigration Act: Section 55 (8) (a) (b)). In fact, implementation of this provision was facilitated again
by broadening competences of the BfV with the the Counter-Terrorism Supplement Act of 2007.

Against these practices, Fekete (2009a: 156) conducting several case studies on this issue, posits that deportation of those, who ‘incite violence and hatred’, is acceptable as long as this is done in accordance with the principle of proportionality and international law. She further remarks that the contested point is

the lack of transparency and the evasion of due process engendered by policies of administrative expulsion. Grafting anti-terrorist measures on to immigration law avoids the usual checks and balances; duties of disclosure are limited; legal aid may not be available and safeguards normally provided under criminal law are largely absent (ibid.)

Indeed, as Moeckli (2010: 471) puts it, through relying on these provisions, the States have started to use their wide enforcement powers ‘to exclude and deport foreign nationals on national security grounds.’ This was well documented by the number of foreigners deported under these provisions. Namely, between the years 2004 and 2007, the authorities deported around 2,000 suspected terrorists under their new powers 80 (see Moeckli 2010; Pelzer 2005). Most importantly, the States contributed to this securitization process by establishing new institutional structures. For instance, the Government of Bayern has created a new working group, called Accelerated Identification and Repatriation of Endangering Persons from the Islamist Terrorist and Extremist Sector (Beschleunigte Identifizierung und Rückführung von Gefährdern aus dem Bereich des islamistischen Terrorismus und Extremismus – BIRGIT) in 2004. This group, consisting of specialists from migrant authorities, the BfV, the police and other authorities, aims at gathering all available information on corresponding persons at the round table; thereby facilitating their expulsion or deportation, if they are considered to pose a security risk (see Schneider 2009). Some other States followed the suit and established similar groups.

80 See for a detailed analyses on the issue, Moeckli (2010); and Pelzer (2005)
Furthermore, with the 2007 Amendment Act, new grounds for discretionary expulsion were introduced. Namely, the Amendment Act offered possibilities to deport foreigners who engaged in acts hostile to integration (IBM 2008: 144). This change, again, mainly targeted the so-called hate preachers and forced marriages. To be more precise, it is stated that a foreigner may be expelled, if he or she, either in Germany or abroad,

- specifically and continuously brings his or her influence to bear on a child or a young person in order to instill or intensify a hate of persons belonging to other ethnic groups or religions,
- prevents another person from participating in life in the Federal Republic of Germany on an economic, cultural or social level by reprehensible means, in particular through the use or threat of violence or,
- coerces or attempts to coerce another person into entering into marriage (Immigration Act: Section 55 (9) (10) (11).

This change signifies an important departure point from the previous framework, as it connects wide range of issues each other, e.g. integration and deportation. Hence, it has deep and broad repercussions for the politics of migration as a whole.

4.6.3.2. Deportation Order

Another crucial change introduced by the Immigration Act is the ‘deportation order’ under Section 58a. It was proposed by Otto Schily during the negotiations process upon the requests to make the deportation of those posing a threat easier and faster. Accordingly, if it is believed that terrorist acts cannot be prevented before they happen, deportation order is used by the highest migration authority or the BMI. Unlike in cases of normal expulsion proceedings, there is no need to inform foreigners in question with a written communication. To be more clear, according to Section 58 a of the Immigration Act,
The supreme Land authority may issue a deportation order against a foreigner without prior expulsion order on the basis of a *prognosis based* on facts in order to avert a special danger to the security of the Federal Republic of Germany or a terrorist threat. The deportation order shall be immediately enforced; no notice of intention to deport shall be necessary (Immigration Act: Section 58 a (1); emphasis added).

Persons, who have to live the country under this order, are banned permanently to return to Germany (ibid. Sec. 11 (1).). Even though it is stated that ‘such a deportation order must be based on factual evidence of a potential threat; mere suspicion is not sufficient’ (BMI 2008: 162), critics argue that the reference to the ‘evidence based threat prognosis’ is too abstract and broad in its application that ‘someone committed a crime is not needed’ (Fekete 2009a: 157). In that sense, this could give rise to deportations that are to be conducted on the basis of a mere suspicious and with a broader application.

Furthermore, another criticism centers on the excessive power granted to migration authorities, who do not need a federal approval before conducting such kind of deportation orders under this clause. This is believed to free migration authorities from judicial control over their decisions (ibid.161). Such kind of deportations have been ordered in various cases up to now (NSOG₁; SEG₁). For example, the States of Hessen and North-Rhine Westphalia deported imams for ‘preaching religious hatred’ (Fekete 2005).

Related to this, another point that should be mentioned is that Germany has not yet transposed the Return Directive (2008/115/EC), which has already legitimized the fast-track removal of migrants on security grounds. Indeed, member states were required to transpose the Directive by 24 December 2010; however, Germany as well as Austria, Belgium, Cyprus, Lithuania, Poland, Sweden and The Netherlands have not notified the Commission of national measures implementing the Directive. This is highly criticized by the Commission on the ground that ‘failure to do so is jeopardizing the efficiency and fairness of the common return procedure and undermining the EU’s migration policy’.
To recast, as this Directive has been very much denounced by pro-immigrant groups and organizations especially because of longer-detention periods and re-entry ban, it is doubtful how the transposition of the Directive could improve the already-securitized removal practices in Germany.

4.6.3.3. **New Exceptions to the Principle of Non-refoulement**

Similar to the EU level developments, the second ‘security package’ also introduced new exceptions to the non-refoulement principle through dwelling upon the Article 1 (F) and Article 33 (2) of the 1951 Geneva Convention in both immigration and asylum acts. In effect, in the course of the former German Asylum Procedure Act of 1993, denial of asylum seekers’ applications ‘was only possible if the person caused a danger to the security or caused a danger to the public good (‘Allgemeinheit’) of Germany, because he or she was sentenced for a criminal act or a very serious offence to detention of three years or more’ (Brouwer 2003: 413). The amendment, however, extended the ground for refusal of granting asylum or refugee status further. In the current context, especially following the transposition of the Qualification Directive in 2007 with the Amendment Act, asylum seekers as well as refugees shall be expelled to a country even if they face a risk of persecution upon removal, if there is a good reason to believe that he or she

1. has committed a war crime, or a crime against humanity within the meaning of the international instruments drawn up for the purposes of establishing provisions regarding such crimes,

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81 Indeed removal of rejected asylum seekers, deemed threats to national security, has been already a case in Germany. Especially, following the acceptance of PKK (Kurdish Workers Party) as a terrorist organization, many Kurdish asylum seekers, whose applications were rejected, were deported to Turkey. Certain NGOs in Germany, such as Pro-asylum, Amnesty International Germany and Refugee Councils started to campaign against these deportations on the ground that these removals are against the non-refoulement principle, since rejected asylum seekers are at risk in Turkey (see for detailed analysis, Fekete (2009a)).
2. committed a serious non-political crime outside the Federal territory before being
admitted as a refugee, in particular, a brutal act, even if it was supposedly intended to
pursue political aims, or
3. acted in violation of the aims and principles of the United Nations’ (Asylum Procedure
Act: Section 3 (2); Immigration Act: Section 60 (8)).

The BMI justified these decisions directly with a reference to terrorism and stated
that: ‘Although the right of asylum offers protection and refuge from persecution, it is not
intended to provide new territory for terrorist activity or those who support it’ (BMI 2008:
138). This change constitutes a break with the previous years’ practices. As detailed
before, the radical change, which came up with the ‘asylum compromise’ in 1993, was
prompted by the need to curb rising number of asylum applications. Abuse of the asylum
system by ‘economic migrants’ was the main motif shaping these practices. However, in
the post-September 11 period, security concerns in relation to terrorism, particularly,
‘abuse’ of the asylum system by ‘terrorists’ turned into another major theme.

As reiterated many times, the main problem of this change stems from the lack of
precise definition of ‘terrorism’ and notion of ‘support’ as well as from the ‘vague
language of’ these provisions (Zöller 2004: 491). Under these practices, as contended
rightfully by Zöller,

The competent authorities are left with the decision which organizations can be called
terrorist. But this decision is especially critical for asylum seekers, as they are frequently
engaged in opposition movements against repressive governments. The issue leads back
to the bonmot “one person’s terrorist is another person’s freedom fighter.” It often is a
question of digression where legitimate opposition ends and terrorism begins, especially
in cases of internal conflict. Furthermore, information about alleged terrorist activity will
often come from the country of origin. This results in a conflict of interest between the
asylum seeker and his home country and may put him at risk in case of return (ibid.)
To sum up, removal practices were also directly and explicitly restructured with a reference to terrorism; they have become a tool for countering terrorism in a more efficient and easier way.

4.7. Conclusion

The first part of this chapter demonstrates that migration issue has already come to be dealt with a securitarian approach in Germany long before the September 11 and following attacks. This securitization process was interrupted to some extent with the introduction of the Green Card Scheme and the new Citizenship Law in the pre-September 11 period. Most importantly, the Süßmuth Commission’s relatively liberal proposal for a new immigration law represented an important break with the long-lasting exclusionary premise of ‘German is not a country of immigration’. However, the September 11 as well as the Madrid attacks, which occurred during the preparation of this new law, replaced these promising moves with a security-oriented mindset. Among many others, as Hogwood states that: ‘The shock events of 9/11 occurred at a critical time in the development of Germany’s new immigration policy, aggravating the long-standing tension between upholding civil and minority rights and the protection of the constitutional order’ (Hogwood 2004: 2; see also Glaessner 2003; Haubrich 2003). As the discussions surrounding the negotiation process of the new law demonstrate, especially Conservatives directly linked migration to the terrorism-related security concerns. Changing perceptions of terrorism and emergence of the so-called ‘Hamburg cell’ fuelled intense debates concerning the issue of immigration and asylum law. In this context, the ‘security packages’ enacted in the aftermath of the September 11 amended various migration-related laws in line with the aim of combating terrorism. Followingly, the subsequent new Immigration Act securitized the practices further and consolidated the convergence of
counter-terrorism agenda with migration politics. Yet, an important point is that terrorism is not the only theme informing the securitization process. Societal security concerns remained intact. Migration has been also framed and administered as a threat to cultural identity and welfare state.

More precisely, in the sphere of external securitization, both continuity and change characterize the post-September 11 developments. For example, practices regarding visa and family reunification were directly and explicitly reinterpreted in the light of terrorist attacks. This is also in line with the EU approach. On the other hand, rather than a radical change, continuity concerning the practices of labour immigration and asylum issues is much more visible. In other words, even though a more open approach towards highly-qualified workers was emphasized, the long-lasting paradigm of ‘recruitment ban’ was preserved against the relatively liberal proposal of Süßmuth Commission. Yet, the restrictive approach cannot be solely linked to the terrorist attacks. Some scholars and interviewees argue that the September 11 and following attacks provided a ‘good opportunity to push forward restrictive regulations […] which had been on the agenda for quite a long time but were met with stiff resistance by a wider public and relevant groups within the governing coalition’ (Glaesser 2003: 51; see also Diez and Squiere 2008: 575; PG₁; PG₃; PG₄; BG₁; NSOG₁). Similarly, the entry barriers set up against asylum seekers were enhanced, though not with a direct reference to terrorism. On the other hand, technological practices (e.g. introduction of biometrics and modification of the AZRG rules) and militarization practices (enlargement of the BGS’s power) signify a convergence between counter-terrorism and migration agendas. However, as stated already, these securitization processes were also driven by the quest for fighting irregular migration.
Secondly, in the field of internal securitization, a direct convergence between counter-terrorism and migration agendas is much more present. For example, as a direct result of the ‘security packages’, more stringent internal surveillance mechanisms were put into place. These practices explicitly targeted foreigners and nationals of certain countries (Arab and Muslim). In a similar vein, as regards to the politics of integration, the pre-September 11 period’s exclusionary and culturalist tendencies remained intact. Having being advocated mainly by Conservatives, the long-lasting ‘a priori assumption that the unintegrated foreigner will somehow undermines German “order”, both in the sense of cultural norms and state security’ (Hogwood 2004: 6) continued to shape integration-related practices. Yet, the September 11 and subsequent attacks in Europe, added another dimension to this constellation – that is the association established between (lack of) integration, radicalization and terrorism. Particularly, discriminatory application of integration programmes, restrictive citizenship practices, security-oriented institutional frameworks characterizing the DIK, as well as regularization processes demonstrate how politics of integration was reshaped in the light of terrorism. Besides, jurisdiction of security agencies was expanded and the data exchange between them and migration authorities was facilitated. By this way, migration issue was reintegrated into the security framework emphasizing policing and defence. Removal practices, including the expulsion of immigrants and asylum seekers were securitized further in accordance with the second ‘security package’ as well as with the introduction of the Immigration Act. Utilization of the immigration law rather than the criminal law in deporting foreigners deemed to threat and new grounds for expulsion signify the preventive approach of German politics in the post-September 11 period. Besides, as in case of the EU level, abuse of the asylum system turned into a key reference point for introducing new exceptions to the principle of non-refoulement. In brief, the two ‘security packages’ and the new Immigration Act together
with the EU level developments locked immigration and security together; included migration into a security framework emphasizing policing and defence; as well as established a security continuum between migration and security. Most profoundly, migration practices clearly came to be utilized as a weapon for counter-terrorism purposes in Germany.
5. Securitization of Migration in Spain

This Chapter will analyze the securitization process in case of Spain with the aim of undertaking a comparative analysis. It will follow the previous chapters’ structure. After undertaking a pre-September 11 period investigation giving a historical and conceptual background on the issue, it will explore the securitization process with a special focus on the post-September 11 period in line with the ‘external’ and ‘internal’ securitization divisions.

5.1. Historical Overview: The Pre-September 11 period

Compare to Germany, Spain is labeled as a ‘new country of migration’, since it started to be one of the receiving country across Europe only during the late 1980s. However, this does not mean that Spanish migration regime was structured solely by emigration in the pre-1980s period. Rather it implies that before that time, emigration rather than migration was the defining feature of the Spanish migration system. To be more tangible, first, between 16th century and the beginning of 19th century, namely during the colonial period, around 750,000 Spaniards emigrated to Latin America (Sanchez Albornoz 1989). Following this, the most significant emigration movement came out in the aftermath of the decolonization; during the period between 1846 and 1932, around five million Spaniards left their country and moved again to Latin America either in order to have better living conditions or owing to the political reasons (see Arango and Martin 2005). Especially, when Franco came to power, many Spaniards fled the country due to civil war, hunger as well as risk of political persecution (Saux 2007: 60). Furthermore, from the 1960s, Spaniards changed their routes and preferred to move to the US as well as to the North and West European countries given the presence of work opportunities in these
countries following the end of the World War II. For example, as stated previously, Germany recruited Spanish workers under the guest worker system until the 1970s economic crisis. Within this context, it can be asserted that when Germany already began to transform into a country of migration within a politicized and securitized framework, Spain was still an emigration country. This is also the case for other Southern European countries; Italy, Portugal, and Greece were sending countries rather than receiving ones at that time.

However, when it comes to the mid-1970, Spanish migration regime started to experience important shifts both quantitatively and qualitatively. Following the death of Franco and initiation of democratization process, Spain witnessed the reversal of population movements. Not only many Spaniards began to return to their county, but also non-Spanish migration into the country started. As will be detailed in the next section, this change can be attributed to various socio-economic and political factors. In order to capture this pre-September 11 period in a historicized and contextualized manner and delineate the dynamics of the securitization process, a chronological stock of policies will be taken. To this end, the following pages will scrutinize the most important practices linking to the ‘structural innovations resulting from the progressive enhancement and diversity characterizing human mobility’ in Spanish case (Carrera 2009: 231).

### 5.1.1. End of Franco Dictatorship and First Sign of Immigration into Spain

In the immediate years following the end of Franco regime in 1975, immigration to Spain came to be dominated mainly by Europeans, and Latin American people. For the former group, notably consisted of wealthy, retired people, Spain became an attractive destination with its favourable climate and low living expenses. Indeed, these ‘European’
people, including mainly from Germany, the UK and the Netherlands, were not conceived as ‘migrants’ in ‘real’ sense owing to their economic wellbeings (Gillespie 2000/2002). Similarly, the latter group was viewed to come ‘from “cultures” considered to be not far from the one, which was supposed to predominate in Spain’ (Carrera 2009: 232). The mobility of these groups did not feed into a political debate and significant legislative arrangements. In this sense, as Carrera puts it ‘immigration was, therefore, a “non-issue”’ during that phase (ibid.). To be more precise, in the meantime, Spain neither established comprehensive institutional frameworks nor enacted unified legislations concerning the issue of migration. As regards to the former, it had only an Office for Emigration (Santos 1993: 96). For the latter, legal frameworks included two legal texts: The Decree N 522, 14.2. 1974 and the Decree N 1031, 3.5.1980. Besides, the rights of non-nationals were defined under Title I of the Spanish Constitution (Constitución española de 1978) (‘on the Fundamental Rights and Duties’), Chapter 1 (on the Spanish and Foreigners). Particularly, Section 13 (1) states that ‘Aliens in Spain shall enjoy the public freedoms guaranteed by the present Part, under the terms to be laid down by treaties and the law.’

Furthermore, after the end of the Franco regime, and following the approval of the new Constitution of 1978, the first reform of the citizenship legislation took place in 1982. As a brief interface, it should be noted that Spain has never adopted legislation solely dealing with the issue of citizenship even until now. Instead, citizenship has been ruled under the Civil Code (Código Civil) in tandem with the Constitution. As in case of the previous framework, the 1982 reform reaffirmed that Spain’s citizenship tradition has been also mainly characterized by the ius sanguinis principle, even though it has also included ius soli elements allowing residence based acquisition (Rubio Marin and Sobrino 2010: 10). Besides, this legislative framework has enforced preferential treatment to the nationals of certain countries deemed ‘culturally’ similar as in case of Germany, whereby the so-
called ethnic Germans were privileged in the citizenship regulations. Accordingly, the nationals of Latin America, Andorrans, Equatorial Guineas, the Filipinos, Portuguese, Gibraltarians and Sephardic Jews countries, might acquire the Spanish citizenship after a 2 years residence in Spanish territory; but for the other nationalities, citizenship rights were granted after 10 years residence (see Spanish Constitution: Articles 17-26). Besides, these nationals were allowed to hold dual nationality under bilateral agreements (EMN 2009: 51). In this setting, as defined by Martin-Perez and Moreno Fuentes (2010: 1), ‘the position of a traditional country of emigration’, and in particular its colonial history determined the citizenship rules in Spain.

Concerning the asylum issue, a relatively liberal ‘Law 5/1984, Regulating Refugee Status and the Right to Asylum’ (Ley 5/1984, Reguladora del Derecho de Asilo y de la Condición de Refugiado: hereafter Organic Law 5/1985) was approved on 26 March 1984 when the other European states started to restrict their asylum channels. As in case of Germany, the ‘generosity’ of the law is closely related to ‘recent history of Spain, more concerned with putting in place a political respectful of human rights for both citizens and foreigners and aware of the debt that it owned for the role played by other countries in receiving Spanish refugees during the forty years of the Franco regime’ (Gil Bazo 1998: 215; see also Martin Corrales 2002: 228). In this context, this law provided crucial rights both to asylum seekers and refugees. As stated by Gil Bazo (1998: 215):

The simple application conferred on the applicant the right to enter the country and remain in it, even in the absence of valid travel and entry documents, until a decision was reached, and also during the length of the administrative and judicial appeals to which he or she was entitled in case of refusal of the application. Besides ‘expulsion to a country in which there were reasons to fear persecution or punishment’ was forbidden (see also Organic Law 5/1985: Article 19 (1)).
However, an important clarification should be made. As indicated by various scholars and interviewees, despite this liberal stance towards asylum issue at least in these initial years of Spanish transformation into a country of migration, Spain has never been considered as a land for refugees and asylum seekers. Instead, it has been defined as a country of labour immigration. The reason is twofold. Firstly, in case of Spain, the distinction between irregular immigrants and asylum seekers has been blurred (AS$_6$). As will be discussed in the proceeding sections, given to the harsh control mechanisms implemented in the following years, many people have not been able to apply for asylum. This is mainly because, they have been caught during their attempt to reach Spain in Mediterranean and returned to their countries of origin or to other third countries. Consequently, they have been treated as ‘economic’ and/or ‘irregular’ migrants without having their claims heard. Second, as it was again mentioned during the interviews, Spanish asylum procedure is a very complicated one, which is marked by bureaucratic hurdles and long waiting periods (AS$_6$; NSOS$_2$). On the other hand, Spain has a sizeable informal economy, which can easily absorb irregular migrants (ibid.). Those asylum seekers would prefer to be lost in this informal economy rather than resorting to the difficult process of asylum seeking. In this context, asylum issue has not occupied a central place both in the past as well as today contrary to German case. In order to make this argument more tangible, one of the interviewee stated that:

The category of migrants never depends on the country of origin, but on the country of destination. You can be an asylum seeker in one country, but be an irregular immigrant in another. For example, Romanians, after the fall of Berlin Wall went to Germany and applied for asylum. However, when Germany restricted the asylum channels, Romanian networks changed their strategy and Southern member states became another target. Nevertheless, in these countries, they did not apply for asylum, because their asylum

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82 This view was mentioned by almost all of the interviewees.
system is not as attractive as the German one. They started to work in an informal economy and then apply for the next possible regularization ($AS_6$).

5.1.2. Organic Law 7 /1985

As Cachon (1999) puts forward that from the mid-1980s, Spain started to witness a ‘real’ transformation from an emigration to a migration country. This process was driven not only by the Spaniards who begun to return from abroad, but also by the extra-European migration consisting of chiefly migrants from Maghreb and Latin America. The main reasons behind this change in the migratory patterns can be listed as follows.

First, following the end of Franco dictatorship, Spain experienced both a democratization process and an economic boom; and these two factors made the country an attractive destination for migrants (see Ortuno Aix 2006). Especially the economic growth prompted the need of cheap labour force that was lacking in the domestic market in the meantime. For example, from 1986 to 1990, ‘over two million new jobs were created, more than in any other European country’ (Calavita 2005: 4). As in today, agriculture, domestic service, tourism and construction constituted the main areas that offered job opportunities to migrants. This was coupled with other unique characteristics of Spain – these are its geographic closeness to Africa and its historical ties with Latin America. More precisely, first, the strait of Gibraltar between Spain and Morocco, where distance is just 14 km., has turned into one of the easiest and shortest passage for irregular immigrants seeking to enter Europe and thereby becoming ‘a focal point of migration pressure toward Europe from the South’ (Carling 2007a: 316). Migrants particularly from Maghreb, who were struggling with economic problems, rising unemployment, together with high birth rates, as well as civil and ethnic conflicts, turned their head to Spain. For example, Saux

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83 Maghreb refers to those countries, located along the north-west coast of Africa and consists of Morocco, Tunisia, Algeria and to some extent, Libya and Mauritania.
(2007: 61) puts it, ‘to live in Spain means living in a 5.5 times richer country than Morocco, 13 times richer than Mauritania, 14 times richer than Senegal and 26 times richer than Mali.’ Against this situation, Inigo More, director of Mercados Emergentes Consultant, comments that ‘It is impossible for a country to be so much richer than its neighbours without consequences. If the rich does not share his wealth, the poor will share his misery’ (cited in Saux ibid.). Within this specific setting, irregular migration from Maghreb, human smuggling and trafficking, have become the most contentious issues.

Secondly, due to the colonial ties with Latin America, migration from that region steadily increased and filled the available jobs in the expanding Spanish market. From the late 1980s, therefore, the composition of migrant population changed drastically. As mentioned above, during the 1980s, citizens of other European countries, (e.g. Germany, the UK and the Netherlands) constituted the ‘migrant population’ in Spain. However, when it comes to the early 1990s, especially Moroccans and Latin Americans, including mainly Colombians and Ecuadorians, became the largest groups.

Moreover, emergence and further expansion of ‘black”, ‘underground’ or so to say ‘informal’ economy from that time onwards contributed to this transformation (Freeman 1995: 893; Pinyol 2012: 39). Even today, this situation with its devastating effects over migrants, has facilitated and encouraged irregular migration into Spain. This does not mean that there is a direct causal relationship between the presence of informal economy and rising irregular immigration. However, large informal markets in Spain and in other Southern European countries should be taken into account as one of the channels absorbing irregular migrants (AS₁; AS₆).

Last though not the least, the European level developments can be identified as factors having contributed to the transformation of Spain’s migration patterns. Spanish accession to the EU in 1986 created further incentives for migrants as this stabilized and
enhanced the economic and political well-being of Spain (King et al. 2000). Furthermore, as discussed already, following the 1970s economic crisis, those ‘traditional’ migration countries closed their door to further migration. Concomitant to this, Spanish membership and its relatively open migration policy made the country a transit zone or so to say ‘corridor’ for those willing to reach more prosperous West and North European countries.

Against this, Apap (2001: 6) argues that restrictive practices of North European countries can be considered as another factor that diverted migration movement towards Spain as well as to other South European countries, such as Italy, Portugal and Greece.

In this specific setting, just prior to its accession to the EU, Spain introduced its first unified immigration law, the so-called Organic Law 7/1985, from July 1st, on the Rights and Liberties of Foreigners in Spain (Ley Organica 7/1985 sobre Derechos y Libertades de los Extranjeros en España: hereafter Organic Law 7/1985) under the Socialist Party (Partido Socialista Obrero Español: PSOE). The focus of the law was on policing, control of the entry, short-term residence and fast-track removals. This is well confirmed in reports prepared by the governmental bodies, which pointed out that the law was ‘adopted mainly for reasons of public order (which explains, for example, its emphasis on the system of removals) and without any consideration at all as to any subsequent changes in immigration statistics’ (EMN 2009: 17). It is also worth mentioning that during the legislative process, MPs associated migration directly with security concerns, including ‘international criminal organizations, terrorist groups, and drug smugglers’ and underlined the necessity of a unified law in order to counter these ‘security threats’ (Moreno Fuentes 2008: 262). However, these voices prompting a security continuum between different fields did not reflect in the law completely, as the law was not based on a detail framework. It just focused on entry/exist issues and left the details to the discretion of administrators (Calavita 2005: 28).
To be more tangible, the law introduced visa requirements for non-EU citizens and did not recognize the right to family reunification (Moreno Fuentes 2004:12). Besides, it established that those, who were willing to stay in the country, were obliged to obtain residence and work permits (Calavita 2005: 28). Most prominently, the issue of integration was completely missing in the scope of the law. In spite of the reference to the rights and liberties of foreigners, the law made a clear distinction between regular and irregular immigrants and reserved the rights to the former group ‘as long as they did not conflict with the national interest, security, public order, health, morality or the rights and liberties of Spaniards’ (ibid.). In tandem with these requirements, it became possible to deport those irregular migrants not having necessary work and residence permits (see Moreno Fuentes 2008). On a closer scrutiny, the ground that could give rise to expulsion can be listed as follows: ‘lack of proper residence and work permits, being involved in activities that were contrary to the public order or internal security, being convicted of a felony, and being without sufficient funds’ (Calavita 2005: 28). Besides, in order to facilitate deportations, the new law called for the establishment of detention centers, namely the so-called Centers of Internment of Foreigners (Centros de Internamento por extranjeros - CIEs) (Fernández Bessa and Ortuño Aix 2006b: 5; Ortuño Aix 2006: 245). It was allowed to detain irregular migrants up to forty days before their expulsion. This first law’s approach is similar to that of Germany’s Foreigners Law of 1965. In fact, as mentioned in the literature, like Germany, during that time, Spain also conceived migration as a temporary phenomenon – that is migrants ‘would arrive, work for a while and leave’ (Maas 2006: 7-8; see also Calavita 2005: 73). Consequently, policing and control aspects of migration policy were emphasized.

84 Some of these rights included rights of assembly, public education, and unionization.
However, the ‘nature’ and ‘objective’ of the new law is also explained with the emergence of the Schengen regime pushing a more hard line approach for the protection of external borders. More precisely, as various scholars argue that given the timing of this legislation (just prior to the accession to the EU), its birth and restrictive character are associated with the EU membership and its requirements. For instance, Cornelius (2004: 345) states that the law is ‘almost entirely the result of external pressure associated with Spain’s entry into the European Community.’ Pinyol (2007: 51) further details that:

This law was also passed in order to calm concerns of some European partners about the consequences of Spain’s accession to the EU. The Mediterranean and Ibero-American relations of Spain (the first driven by geographical proximity, the second by historical and cultural ties) were seen as carrying the risk of an increased influx of new immigrants from these regions.

Similarly, Carrera (2009: 242) posits that:

EEC membership had important implications regarding the nature and objectives of this law. Spain felt under the obligation to show its commitment towards border control, as it would soon become a border country of Europe and responsible for the management of immigration. Therefore, the main rationale was the introduction of a restrictive legal framework allowing more control oriented measures and aiming at making the borders more secure and facilitating the procedures of expulsion of irregular immigrants.

Shortly, it is reasonable to assert that Spain’s EU membership was likely to lead to unease among other member states due to its geopolitical situation—namely historical ties with Latin America and geographical proximity to Africa—, which was believed to open the doors of Europe further to migration (Serra 2005: 5). In this context, Spain was obliged to internalize the on-going securitization process at the EU level in the meantime and turned

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85 See among others, Zapata-Barrero and De Witte (2007); Cornelius, (1994); Arango and Martin (2005); Gomez and De Carlos (2008), Carrera (2009); Freeman (1985); Fernández Bessa and Ortúno Aix (2006); Pinyol (2007) and Serra (2005).
into a “containing barrier” with restrictive practices’ (Fernández Bessa and Ortuño Aix 2006: 1-2).

5.1.3. ‘The Situation of Immigrants in Spain: The Basic Lines for the Spanish Immigration Policy’

Since the structural transformation of Spain into a country of migration intensified, the necessity to develop more comprehensive migration practices became more apparent. As such, the most important step taken by the Socialist government was the introduction of a Communication to the Congress, called ‘The Situation of Immigrants in Spain: The Basic Lines for the Spanish Immigration Policy’ (Proposición no de ley, Situación de los extranjeros en España. Líneas básicas de la política de extranjería) in 1990. It was ‘adopted in the form of a proposal of non-law on 9 April 1991’ (Carrera 2009: 243). This proposal of non-law called for changes in the following fields: integration, border security, cooperation with third countries, the Law on the Right of Asylum and Refugee Status of 1984 and regularization of irregular migrants (ibid.; see also Aragon 1996). The following pages will detail the changes in these fields.

5.1.3.1. Policy of Integration

As pointed out by Carrera (2009: 243), ‘the proposal for non-law represented one of the first instruments where the category of “integration of immigrants” appeared as part of the government discourse and of the Spanish political debate.’ However, these debates surrounding the issue carried the hallmarks of the securitization of migration in terms of ‘us’ vs. ‘them’ dichotomy. Indeed, in the early years of 1990s, during which Spain had for the first time a positive migratory balance and migrants came to be more visible, the initial sign of anti-immigration discourses and parliamentary debates entered the policy scene. As
analyzed by Ortuño Aix (2006: 236), politicians started to refer to ‘problems’ originating from Muslim and Arab migrants. For example, Jordi Pujol, - the President of the Catalan Autonomous Government in the meantime -, during a symposium, argued that ‘In Catalonia, as in any European country, it is easy to integrate the Polish, Italians or Germans, but it is difficult to achieve that with Arab Muslims, even with those who are not fundamentalists’ (ibid.). Similarly, his wife, Marta Ferrusola, made similar statements and commented that ‘if we the Catalan people, are not concerned with the situation of Catalonia, the others [Muslim migrants] will destroy our society…because they are against our country [Catalonia]’ (ibid.). As in case of Germany, this dichotomy was blended by ‘culturalist’ aspirations transfiguring (Muslim) migrants into threatening ‘other’ deemed to play against societal security of the community. This dichotomy was well pronounced in the concluding paragraph of this proposal of non-law by stating that:

During the nineties, the consolidation of Spain as a country of immigration will make necessary the design and practice of a global and coherent immigration policy which will protect and preserve our economic interest and social cohesion; which will taken into account our cultural and historical links; and which will guarantee, in compliance with the values of democratic Spain, the complete integration of the collective of immigrants who are resident and who close our country as their place of life and work (cited in Carrera 2009: 243-4: emphasis original).

According to this excerpt, Spanish economic interest and social cohesion were emphasized and the dichotomy between ‘Spanish people/us’ and ‘migrants/them’ was reaffirmed through utilizing the wording of ‘our’ (ibid.). Moreover, on account of ‘cultural and historical links’, including colonialism, emigration, etc., the proposal of non-law reiterated the previous years’ citizenship approach privileging nationals of certain countries (e.g. Latin America, Andorra, Guinea Equatorial, Filipinas and Portugal) (see Fernández Rozas 1987; Carrera 2009). These ‘cultural’ elements were reemphasized by the
subsequent reforms of the Spanish legal regime on citizenship in 1990, 1993 and 1995 in the pre-September 11 period. Particularly, with the reform of the Civil Code in 1990, another element was added to this exclusionary and discriminatory framework – that is the inclusion of integration as a ground to acquire the Spanish citizenship. To be more precise, ‘in addition to the different applicable criteria as regards the length of residence, the new law provided that any applicant for naturalization by residence would need to prove a sufficient degree of integration into the Spanish society’ (Carrera 2009: 245). Under these circumstances, in Carrera’s words, the emphasis on ‘values of democratic Spain’ and ‘complete integration’ attached to the notion of integration is to be seen ‘as an acculturation attempt calling for the disappearance of diversity inherent to the phenomenon of human mobility and settlement into the traditional conceptualization of Spanish societies’ (ibid. 244). In this regard, similar to Germany, integration issue came to be dealt with a culturalist and exclusionary approach long-before the September 11. Besides, the constructed linkage between integration of migrants and economic interests and social cohesion of Spanish society demonstrated how migration issue was to be connected to societal security considerations. Yet, despite these moves, Spain did not institutionalize this approach within a nation-wide applicable legal regime. In fact, despite certain steps taken towards developing a more-structured, and unified approach in this field, integration practices remained to be ‘located at the local level, with a plethora of regional and municipal programs, including language courses, programs publicizing immigrants’ rights and how to access them, job training, multicultural aides in public schools’ for a long time (i.e. until the 2007) (Calavita 2005: 5-6).
5.1.3.2. Strengthening Border Security

The proposal of non-law also urged the government to take a number of steps in order to enhance border security and strengthen entry schemes. In line with this, from the 1990s, Spain started to introduce more restrictive visa policies. First, on 15th May 1991, the Socialist government reapplied visa requirements to the nationals of Maghreb countries after the expiration of agreements with Tunisia, Morocco and Algeria for mutual lifting of visa restrictions (Moreno Fuentes 2008: 265; see also Garces-Mascarenas 2012). This was followed by Latin American countries, among which Colombia was the first one subject to this requirement. The main rationale behind this policy was that these countries were conceived as the main sources of irregular migrants (Calavita 2005: 28-29). Indeed, the EU became an influential driving force for this change. Because of its quest for joining the Schengen system in 1992, Spain was required to tighten its border control mechanisms (Moreno Fuentes 2004). Perez (2010: 108-109) stated that:

Since Spain signed the Schengen Agreement in 1991, the development of a shared visa policy has meant that the countries with the highest migrant flows to Spain have been gradually added to the list of countries in which people are required to obtain a visa in advance from Spain’s embassies and consulates abroad.

As Perez further argues that visa policy provided significant political leverage to externalize migration control practices, as ‘it transfers the denial of entry to the embassies and consulates in the countries of origin, far from Spain’s national territory and from the scrutiny of Spanish public opinion’ (ibid.).

Concerning the admission of labour immigrants, Spain started to follow, again, a restrictive stance through establishing the quota system in 1993. According to this system, migrants were to be accepted in line with the needs of sectors in designated regions. This turned into the guiding principle in the following years. More precisely, from that time
onwards, governments have determined ‘a foreign labour quota reflecting labour market trends and also specified which nationality [is] to be permitted to fill the quota’ (Cornelius 2004: 404-405). Together with imposition of visa requirements, this quota system was also conceived as a response to ‘Europeanization’ process envisaging a toughened approach vis-à-vis labour immigration starting from the 1970s (Moreno Fuentes 2004: 16). Against these shifts, it is argued that ‘In order to ensure EU inclusion and gain benefits of doing so, Spain seems to have acted largely out of its own national interests when forming immigration policies in the 1980s and 1990s’ (Tone 2008).

Apart from these practices performing the role of ‘policing at a distance’, the proposal of non-law called for intensifying controls around territorial borders (see Aragon 1996). Again, the developments in this area should be read in a broader European context, whereby introduction of the Schengen system urged member states to strengthen external border controls. Among these steps, the most important one is the gradual expansion of the power and competences of the Civil Guard from the 1990s. In order to demonstrate the securitizing character of this agency, some background information should be given. The Civil Guard was established in 1844 and, originally in charge of dealing with more ‘traditional security concerns’, including restoring and maintaining internal security, fighting ‘domestic’ terrorism, as well as later foreign peace-keeping missions. In fact, it can be defined as a ‘paramilitary police force [reporting] both to the interior and defence ministries’ with an official status as an ‘armed institution of military nature’ (Lutterbeck 2006: 65). Furthermore, it was equipped with ‘a considerable amount of military-style armory, such as light-infantry weapons’ (ibid.). In the following years, starting from the early 1990s, it turned into one of the principal bodies implementing and interpreting the law on migrants, including expulsions and detention (HRW 2002a: 4). In brief, ‘fight against irregular migration’ was inserted into the scope of its activities. In these years, the
agency was active along the Strait of Gibraltar. In the following years, parallel to the shift in routes for irregular entries, Ceuta and Melilla became its main areas of concern (SES₁). Ceuta and Melilla are the two enclaves of Spain having autonomous status, located on the north coast of North Africa surrounded by Morocco. Their importance regarding irregular migration became obvious, because of being the only Spanish territories located in the mainland Africa. In this respect, the Civil Guard enhanced its policing efforts targeting these two cities, and constructed a double fence around them (Pugh 2000: 39). Initially, a fence with a length of 8.3 km was introduced surrounding Ceuta in 1993 (Alscher 2005: 10). This first fence was doubled in 1995 as it was not seen high enough to secure the city (ibid.). In case of Melilla, the first fencing system was constructed in 1996 (ibid. 11; see also Pugh 2000).

Against this backdrop, and most prominently, given its para-military character and involvement in ‘traditional’ security issues, placing migration under the competence of the Civil Guard also prompted a securitarian approach vis-à-vis migration issue. Indeed, this development resembles to the German case whereby the BGS became increasingly active especially on Eastern borders of the country from the early 1990s.

5.1.3.3. Intensification of Cooperation with Third Countries

The third objective of the proposal of non-law put the focus on the intensification of bilateral cooperation with third countries and on multilateral responses particularly to contain irregular migration from Africa. Various scholars as well as interviewees stated that following the restrictive regime provided by the Organic Law 7/1985 and the imposition of visa requirements, the regular channels to enter Spain were almost disappeared (Aja 2006; PS₂; PS₄; BS₁; AS₇). Likewise, Carrera (2009: 242) explains that
since the adoption of the Organic Law 7/85 and with the subsequent regulations, e.g.

imposition of visa requirements and labour quota,

The prevalence of a securitarian paradigm, as well as the widening of sanctions […] led to the appearance of more irregularity by forcing people to enter and stay in Spain without respecting the rigid rules which simply did not match the institutionalization of immigration as a social reality [In this context], the only regular channels available to enter Spain were mainly tourism.

In this context, particularly readmission agreements became one of the cornerstones of migration politics from the early 1990s in order to remove and deport those trying to enter and stay irregularly in Spain. In 1992, Spain signed the first readmission agreement with Morocco. With this agreement, Morocco was supposed to take back both its nationals and nationals of other countries who entered Spain via Morocco irregularly. As mentioned in case of Germany, readmission agreements made easier to ‘get rid of’ irregular migrants without taking the burden of unilateral deportation processes. However, Morocco was not so much keen to admit those irregular migrants ‘by consistently denying requests for repatriation on the grounds that there was insufficient proof that the migrants in question had actually departed from Morocco’ (Carling 2007a: 323-4). Indeed, lack of incentives on the side of Morocco was an important factor that set back the ‘smooth’ functioning of the readmission procedures. That is why; development aid was integrated into the readmission agreements. Concomitant to this, financial supports were made conditional upon the cooperation of third countries in accepting irregular migrants in the following years. Within this context, readmission of irregular migrants was included into other agreements relating to trade or association agreements. In the course of these agreements, externalization of migration control practices was clearly manifested by shifting the responsibility of dealing with irregular migrants including rejected asylum seekers to third countries. As detailed already, one controversial issue here is the blurring line between
irregular migrants and asylum seekers in the course of repatriation processes under these agreements. To be more precise, this approach has had grave impacts over asylum seekers, who were regarded as irregular migrants at the outset and not given the possibility to lodge their applications in Spain or in other European countries. Moreover, they came to be sent to Morocco or to other African countries, which have not had good human rights records or whereby there has not been well-established, genuine asylum-processing regime (AS₅).

5.1.3.4. Modification of the Law on the Right of Asylum and Refugee Status

As explained previously, given the legacy of the Franco regime, which forced millions to leave the country, Spain came up with a relatively liberal asylum policy that granted extensive rights to asylum seekers and refugees. However, this approach also changed following the proposal of non-law having urged the modification of the Law on the Right of Asylum and Refugees Status. Accordingly, in 1994, at the initiative of the PSOE and the PP and despite the opposition of the IU⁸⁶, Spain reformed its existing law and introduced a much more restrictive one, namely the Organic Law 9/1994. This change led to imposing strict admission procedures and limiting rights of asylum and refugees within the country. More precisely, following the reform, a ‘simplified’ procedure of admission became the norm. However, this practically implies that ‘admission would be allowed prior to formal acceptance of application for asylum and was designed to act as a filter and to eliminate those demands considered “clearly abusive”’ (Fuentes 2008: 263). Furthermore, under the reformed law, for those ‘failed asylum’ seekers, ‘the possibility of staying in Spain legally for six months in order to apply for residence and a work permit, allowed under the previous law, was abolished’ (Fauser 2007 141). A last point that

⁸⁶ IU is a leftist political coalition, formed by a number of groups of leftists, greens, left-wing socialists and republicans.
should be noted is that Spain also adapted to the discourse of protecting the system against the so-called ‘bogus asylum seekers’ and/or ‘economic migrants’. This was explicitly manifested in the Preamble of the reformed law, which stated that:

The deficiencies in the earlier system as well as the new international instruments on the matter, required a revision of the recognition of refugee status and the grant of asylum, in order to avoid the fraudulent use by economic migrants of the system for the protection of refugees (Gil Bazo 1998: 215).

Again, this change should be read parallel to the EU level developments and the restrictive trend dominating other member states at that time. Namely, the reform was not enacted as a response to an ‘asylum crisis’ or ‘pressure’, which was the case for Germany’s so-called ‘asylum compromise’ of 1993. This is evidenced by the numbers demonstrating that asylum applications were still low at that time (see Fauser 2007). In this sense, this modification closely linked to the EU level developments. Namely, with the adoption of the Dublin Convention and the subsequent London Resolution, ‘an accelerated procedure for deciding whether a claim was based on “manifestly unfounded grounds” and thus not be admitted for further processing’ was inserted into the Law (ibid. 141). However, as Fauser argues, this demonstrates how Spain follows a selective Europeanization, because ‘these recommendations formulated [at the EU level] were not strictly binding’; nevertheless, Spain as well as other member states increasingly opted for transposing them into their domestic legislations (ibid.). She adds that:

[W]hile it was clear to all actors that the existing legislation from 1984 was in need of revision, the existence of a European approach to these issues very much conditioned the proceedings. The two major parties in the Spanish political system, the socialist PSOE (Partido Socialista Obrero Espanol) and the conservative PP (Partido Popular) followed a favourable and strong course in aligning Spanish legislation with European developments.
The leftist IU (Izquierda Unida) and, to a varying degree, the smaller regional parties with representation in the central parliament, showed resistance (ibid. 142).

In the following years, again, in line with the EU level developments, Spain implemented another restrictive measure, which hindered considerably the possibility of seeking asylum in the country. As in case of Germany, carriers sanctions, originally laid down in the Schengen Agreement, was integrated into the Spanish law by the Executive Regulation to the Foreigners Law in 1996 (RD 155/1996, art., 41.1). This measure put asylum seekers in a more difficult situation, as it became extremely difficult for those not having necessary documents to lodge their applications in Spain. Shortly, ‘with these reforms, Spanish legislation on asylum, entry and border control became on the whole more restrictive in comparison to its earlier liberal character’ (Fauser 2007: 142).

5.1.3.5. Regularization of Irregular Immigrants

The last objective of the proposal of non-law centered on the regularization of irregular immigrants. In 1991, the government adopted the first regularization programme, which granted three-year work and residence permits to almost 112,000 irregular immigrants (Moreno Fuentes 2004). In fact, this step was taken under the pressure of various NGOs for a broader amnesty (Aja 2000: 25-37). It was believed that this practice might contribute to the integration of irregular migrants living and working in a vulnerable situation (ibid.). However, as one of the interviewee mentioned that this approach could only offer short-term solutions; rather than long-lasting answers to the problems of irregular immigrants (AS₆). This is chiefly because, after expiration of their work permits, these migrants were to fall again into irregular situation and had to wait for the next regularization process (ibid.). Despite these contentions, regularization programmes became a ‘norm’ or a normalized procedure rather than an ‘exception’ and /or
extraordinary measure in dealing with the issue of irregular immigration in Spain in the following years (Maas 2006: 9-10). In the pre-September 11 period, Spain regularized irregular immigrants twice, namely in 1996 and 2000. The consolidation of the role of these programmes is explained by foremost economic considerations. As put it by Huntoon (1998: 431), ‘a tightening of immigration to Spain could decrease the supply of unskilled labour in Spain and put a damper on economic growth if higher wages needed to move Spaniards into unskilled occupations.’ Under these circumstances, employers were keen to fill labor-intensive sectors with cheap irregular immigrants. Consequently, regularization programmes were used ‘as a way to respond Spanish demands for unskilled labor’ (Tone 2008) and they were ‘apparently an outcome of unfolding domestic demands (Drozdz 2011: 75). However, certain scholars point to another rationale pushing for these programmes. For instance, for Izquierdo (1996), this approach is also based on the logic of control, though it has not clear and direct security connotations. The interviewees, on the other hand, assert that both of the rationales explain the normalization of regularization programmes in Spain: on the one hand, it satisfied domestic market demands; on the other hand, it provided the state with a control mechanism over irregular immigrants in the country (BS₁; AS₆).

5.1.4. New Border Surveillance Practices and Legislative Frameworks

When it comes to the end of 1990s, Spain experienced crucial shifts regarding its migration legislation and practices. Serra (2005: 1-3) identifies the points structuring the context in the meantime as follows:

- The magnitude and speed of growth became a key concern;
- Most immigrants began to enter Spain without necessary documents (they are irregular);
- Immigrants started to concentrate in certain areas, leading to increased pressure on local administration;
- Spain started to experience a significant level of ethnic, cultural and religious diversity.

These changes corresponded to the shifts in the political arena as well. The PP under Aznar government won the election in 1996 and overthrew the fourteen years rule of the Socialist government. When Aznar came to power, he gradually put migration issues at the center of the political agenda and advocated migration practices, which were clearly restrictive and securitarian (Tone 2008).

First, the surveillance of borders was intensified under the PP government. For example, in January 1998, Juan Cotino (PP), the chief executive officer of the Spanish National Police from 1996 to 2002, presented a new project, called ‘Plan Sur’ targeting Spanish southern borders. The key objectives of this project were ‘strengthening of border controls, a more intensive surveillance of air – and seaports, a tightening of deportation procedures, and a closer cooperation with Moroccan and Algerian authorities’ (Alschler 2005: 12). It was decided to supplement this project with advanced technical equipments including new vehicles and helicopters from the Spanish army. This architecture signifies a clear securitization process, whereby migration was integrated into a security framework emphasizing policing and defence and dealt with means that were originally used against traditional security concerns.

Another fundamental development is the introduction of the so-called Integrated System of Exterior Surveillance (Sistema Integro de Vigilancia del Estrecho - SIVE) in 1999 with a budget of about 150 million euros for the period from 1999 to 2004. The main aim was to enhance the surveillance of Gibraltar; thereby detecting unauthorized entries of pateras and Cayucos (different types of rafts). The SIVE run by the Civil Guard became an
integrated system of radars, infrared cameras, planes, helicopters and boats allowing early
detection and central command (see Albahari 2006: 10). It started to work in line with the
following steps:

- A small boat with migrants on board approaches the coast.
- A system of fixed and mobile sensors (radars, infrared cameras, and video
cameras) detects the vessel 10 to 25 kilometers from the shore.
- The control center is alerted and can follow the vessel by remote control of the
sensors. At a distance of approximately 5 kilometers from the coast, it is possible
to estimate the number of people on board.
- The vessel’s course and time of arrival are estimated.
- One or more interception units (boats, helicopters, and cars) are deployed in order
to intercept the vessel close to the shore.
- The passengers are apprehended and brought to a reception center.
- When the system works as intended, the Civil Guard can start preparing for the
interception several hours before the vessel reaches the shore (Carling 2007b)

After its introduction, the SIVE attracted enormous criticisms from left-wing
parties, Catholic Church, labour unions and humanitarian NGOs (El Pais 1999). They
argued that, first, it was ‘repressive’ and, second, such a huge amount of money should
have been invested in the ‘integration of migrants’ or for ‘development assistance to the
countries of origin’ (Carling 2007b; Alscher 2005: 13). They further added that it was not
likely to be effective in deterring irregular migrants, as it contributed to the reorientation of
migrants’ routes into more dangerous ones (Albahari 2006; Gil-Bazo 2006). The
government justified the system with a reference to the EU. Jaime Mayor Oreja, the
Minister of Interior at that time, pointed to the ‘Spain’s obligation vis-à-vis Europe’ and
stated ‘Spain must live up to the standards demanded by the Europe’ (cited in Carling
2007a: 325). In this context, as Drozdz (2011: 82) mentioned:
Regardless of [SIVE’s] unfulfilled promise to stop unauthorized immigration, its establishment pronounced a new position of the country in the European Union as an active proponent of the fight against inflowing undocumented immigrants and as a supporter of bilateral negotiations with the sending countries.

Parallel to these developments, new legislative frameworks were also introduced. The first significant initiative came up with the three legislative proposals submitted by three political groups, namely by the Convergence and Union (Convergència i Unió, CiU), IU and Mixed Groups (Grupo Mixto) on 10 March 1998 (Carrera 2009: 247-8). The path breaking feature of these proposals, which were turned into a unified act in the following year, was their emphasis on ‘the need to move from an immigration policy centered merely on security and control, to one fostering “social integration” and the prevention of discrimination’ (ibid. 248). More precisely, enhancement of equality between nationals and non-nationals in all fields, improvement of the rights of irregular migrants, such as those concerning health and education, as well as relieving of the sanctions imposed on them and recognition of the right to family reunification were the significant points that came into stage with these proposals (see Aja 2006; Carrera 2009). As the PP did not hold the absolute majority in the Congress, they did not prevent this liberal law from being enacted despite their lobbying efforts during the fifteen months negotiation process. In the end, the new law was adopted with the title of *Law on the Rights and Liberties of Immigrants of Immigrants and their Social Integration*, (Ley de Organica 4/2000 de Derechos y Libertades de los Extranjeros y su Integracion Social, hereafter - hereafter:

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87 CiU is a center-right, nationalist electoral alliance in Catalonia, composed of two parties, the larger Democratic Convergence of Catalonia (Convergència Democràtica de Catalunya: hereafter CDC) and its smaller counterpart, the Democratic Union of Catalonia (Unió Democràtica de Catalunya: hereafter UDC). On the other hand, Grupo Mixto represents deputies who are not member of any political group. More precisely, ‘in Spain, the minimum number of seats to form a parliamentary group is 15 for the lower and 10 for the upper chamber. In the lower chamber, parties that have obtained at least 5 seats and at least 15 percent of the vote in the constituencies where they have presented candidates, or at least 5 percent of the vote at the national level, can establish a separate parliamentary group. Parties do not meet these requirements are incorporated in the so-called mixed groups (grupo mixto)’ (van Biezen 2003: 228; see also Encarnación 2008).
Organic Law 4/2000) on 11 January 2000. It was considered as ‘the most liberal law on the rights of foreigners in Europe’ (Calavita 2005: 30). As the title signifies, for the first time, integration issue became one of the policy priorities in an institutionalized form.

Most importantly, it was not framed under a culturalist approach; rather defined with a reference to principles of equality, socio-economic and political rights. This new law ‘did not discriminate based on legal status of an immigrant when appropriating rights and it protected undocumented immigrants from being deported’ (Newton 2003: 7; see also Aparicio Gomez and De Carlos 2008: 151; Gortazar 2002: 8). Consequently, regardless of their legal status, all migrants, who registered in the municipal census, were entitled to the following rights: freedom to demonstrate, strike, and participate in associations; right to education; access to emergency and regular public health care; right to basic services and housing assistance (Gortazar 2002: 8). Following this new law, a new regularization process was held that covered the period from February 22nd to the April 28th in 2000.

Owing to the pressure coming from various groups, such as left-wing parties, trade unions and pro-immigrants NGOs, the length of this regularization process was extended to four months.

In the aftermath of the adoption of this new law, a new electoral process started for the general election. The PP, again, made the issue of migration one of the electoral priorities and committed itself to reform the existing law. The arguments of the PP, which were invoked both during and after the election campaign in order to justify the modification of the law, were twofold. Firstly, it was argued that the new law was too ‘liberal’ that could have a ‘call effect’ (efecto llamada) – that means it would encourage further immigration into Spain (ibid.). Secondly, the PP argued that the rationale of the new law was not in conformity with the objectives of the Tampere Summit of 1999 (see EMN 2009: 29). More precisely, it was claimed that the framework of the law was ‘against
the restrictive standards’ which were set by the EU to ensure the full implementation of the Schengen system (Kleiner-Liebau 2009:87). In this setting, as in case of Germany, ‘escape’ to Europe was invoked to justify unfavorable policies (Geddes 2001: 28; Freeman 1998: 89). By the same token, in words of Carrera (2009: 251), ‘The EU was co-opted as the perfect excuse for carrying out legislative reform with a stronger, rigid, and restrictive tone towards immigration’ (see also Newton 2003). However, the critics refuted this justification and ‘excuse’ on the following grounds:

- First, the Tampere Programme was already existed (May 1999) at the time of the adoption of the previous law 4/2000 (January 2000).
- Second, the fact that the Spanish legislation was going to confer a number of rights on third-country nationals of irregular status and expand rights for those of regular status would not have contradicted the Council Conclusions. In fact, both the Tampere Council Conclusions and Law 4/2000 coincided in many respects with this approach of equality of treatment.
- Finally, the Tampere Programme was not legally binding, so the Spanish government was not under any obligation whatsoever to present a new Law (Carrera 2009: 251-252).

Another issue that was relied on by the PP to justify the reform is the so-called El Ejido events, which took place during the electoral campaign, namely between February 5-8, 2000. This event led to violent attacks on migrants, their houses, work places and mosques, after the murder of a Spanish girl by a mentally ill Moroccan in El Ejido (Andalusia). Zapata-Barrero (2003: 523) eloquently analyses that El Ejido events represent a very important case, which illustrates that ‘Spain “discovered” immigration’ and ‘the issue is no longer a matter of administrative and “technical” concern’ but has become one of the key political issue. During the events, in addition to ambitious statements of politicians, the only visible response was to intensify police forces in order to take the
control over the riots (ibid.). Even though there is no clear empirical evidence to sustain the arguments put forward by Zapata Barrero to explain this political atmosphere, it is worth outlining them to shed light on the general context whereby these events took place. He identifies two important points that are to explain the ‘whole picture of El Ejido’:

1) *The beginning of the electoral campaign*: Due to the upcoming election, the politicians were careful in their statements not to offend ‘different and opposite sensitivities’; thereby trying to gain votes of all sides. Yet, the only common assertion among different wings is the emphasis on law and order as well as on stability and security.

2) *The enactment of a relatively liberal Immigration Law*: The new law – Organic Law 4/2000 was viewed and presented by the government as being too permissive and in contradictory with the EU principles. For Zapata-Barrero, ‘[t]he empirical evidence is that the riots were used to justify legislative changes, as this effectively occurred after the events with the enactment of a more restrictive Aliens Law in August 2000 (Organic Law 8/2000)’ (ibid. 529-30).

Moreover, it should be noted that the link between criminality and migration was put into public agenda in the aftermath of these events. More precisely, the stereotype of Moroccan people as criminal, violent, dangerous and too many was reinforced (Saux 2007: 69). Calavita (2005: 33) claims that Aznar successfully capitalized on El Ejido events; he claimed that the Organic Law 4/2000 with its liberal character ‘had been responsible for the El Ejido violence by implicitly encouraging immigration’ and he urged to dismantle the law.

In this specific setting, dwelling upon his party’s absolute majority in the Congress and by ‘selectively using broad interpretations of the Tampere conclusions’ (Newton 2003:
9), Aznar introduced a more restrictive law, known as Organic Law 8/2000 amending the Organic Law 4/2000 on the Rights and Liberties of Immigrants and their Social Integration. It was adopted on 22 December 2000. Unlike the previous one, it limited the rights of both regular and irregular immigrants, such as those regarding health, education, family reunification, etc. Besides, ‘equality paradigm concerning the integration was simply lost’ (Carrera 2009: 249). While the old law put focus on the integration of both regular and irregular migrants, the successor limited this to the former group ‘by stressing expulsion of “illegal” immigrants in order to fight against “illegal” immigration’ (Newton 2003: 8). Hence, ‘the only express reference that was kept in the [new law] to the “social integration of immigrants” was in the title’ (Carrera 2009: 249). Consequently, as in case of the first immigration law of 1985, most of the rights were made dependent upon the judicial status of migrants. Shortly, the new law excluded ‘a whole branch of aliens – the irregulars – from the enjoyment of certain rights’ (Saux 2007: 69). Concerning its securitarian character, the following measures adopted by this law deserve further clarification:

- It makes the regularization of irregular migrants difficult compare to the former through adding stringent conditions. For example, according to previous Organic Law 4/2000, two years uninterrupted residency was enough to obtain temporary permission; whereas, the new Organic Law 8/2000 required five years of stay (Fernández Bessa and Ortuño Aix 2006: 15-16).

- It reinforced the sanctions on the irregular stay within Spanish territory. For instance, in the course of the previous Organic Law 4/2000, expulsion was applied to those who committed serious offences or crimes; the Organic Law 8/2000, as the former Organic Law 7/1985, provided the possibility to invoke the procedure of expulsion in cases of irregular stay (see Organic Law 8/2000: Article 57 (1))
• The CIEs, which were introduced by the Organic Law 7/1985, were once again reemphasized in order to make the administrative removal of irregular immigrants easier (Fernández Bessa and Ortuño Aix 2006:16). Police was allowed to detain irregular immigrants for up to forty days in these centers and to deport them within seventy-two hours. According to Silveira (2001/2002), these detention centers ‘belong to the special criminal law, which unlike the ordinary criminal law, are not governed by principles of strict legality and jurisdictionality as it concedes priority to competences of the police to the detriment of jurisdiction’ (cited in Fernández Bessa and Ortuño Aix 2006:17).

• Last but not least, as Calavita (2005: 34) argues eloquently, ‘indicative of its policing orientation, the law moved responsibility for immigration issues into the Department of the Interior where criminal justice functions are located.’ She further argues that ‘the overall effect of this law has been to curtail the rights of both illegal and legal immigrants and increasingly to spell migration as a police function’ (ibid.). Shortly, ‘the reform was basically oriented towards ordering and controlling migratory flows; it neither affects nor addresses the social integration of immigrants’ (Aparicio Gomez and De Carlos 2008: 152).

5.1.5. Interim Conclusion

Analysis of the pre-September 11 period demonstrates that migration issue has come to be dealt with a securitarian approach in Spain as well. Particularly, a growing preoccupation in Spain as well as at the EU level, with irregular migration and the perceived related challenges pushed forward this process and securitizing practices. Its peculiar geographic position, namely its closeness to Africa and being the external border of the EU fuelled concerns regarding irregular entries. Most prominently, a security
continuum between irregular migration and organized cross border crime, (e.g. human trafficking and smuggling) was established (Lutterbeck 2006: 61). In countering these ‘security issues’, various securitizing practices came to be deployed. The previous liberal approach towards immigrants and asylum seekers was replaced by a restrictive one emphasizing policing and defence. The first law of 1985 with its focus on policing and control started to locate the issue of migration within a securitarian framework. Given the importance of the EU membership for the birth and content of the law, it is reasonable to argue that the EU induced this securitization process with its emphasis on external border controls. Secondly, in the beginning of the 1990s, again in line with the securitization process developed at the EU level, restrictive visa policies, technologized and militarized border surveillance practices (electronic fences, SIVE; increasing role of the Civil Guard), as well as intensification of cooperation with third-countries, all, signify the securitization process aiming at containing ‘unwanted’ irregular migration. Furthermore, as in case of Germany, ‘bogus asylum seekers’ and/or protection of asylum regime against ‘economic migrants’ entered the political agenda and this reflected in the restrictive and exclusionary asylum practices. However, contrary to Germany, where the increasing number of asylum seekers fuelled this changed, the EU had a decisive influence over this shift in the Spanish context given the fact that the asylum numbers at that time did not necessitate taking such a hardline stance. On the other hand, regularization programmes emerged as one of the control mechanism dealing with irregular immigrants within the country. However, this policy line, apart from its control-oriented logic, does not present a direct securitization move. Rather it represented as a way to deal with irregular immigration in accordance with the market needs.

Moreover, even though integration, particularly citizenship regulations, were shaped by culturalist and securitarian tendencies privileging certain groups, and excluding
others, Spain did not introduce comprehensive and structured integration practices. This situation is partially similar to Germany, whereby integration issue was set aside in the pre-September 11 period and culturalist and conservative tendencies were shaping the inclusion/exclusion dynamics. Lastly, when approaching to the September 11 period, Spain formulated important legislative frameworks. As detailed already, the Organic Law 4/2000 with its liberal character interrupted the ongoing securitization process. However, this process did not last long and a more restrictive and securitarian Organic Law 8/2000 emphasizing policing and control marked the end of 2000s.

To conclude, parallel to the EU integration process, Spain also securitized its migration practices. However, this pre-September 11 period in Spain represents certain differences. Contrary to Germany, whereby migration was explicitly and directly securitized in relation to societal security concerns (e.g. cultural identity and welfare state), such kind of securitization is less explicit in public space in the Spanish case. A more diffuse technocratic-based securitization, driven by technologized and militarized border control practices, was more decisive.

5.2. The Post-September 11 period

The political context characterizing Spain at the time of September 11 attacks happened is considerably different than that of Germany. As the analysis of Germany demonstrated, a relatively liberal approach reflected in the Green Card scheme and reform of the Citizenship Law interrupted the ongoing securitization to a certain extent prior to the September 11 attacks. Besides, formulating a new immigration law with a considerably open and inclusionary framework was on the top of the political agenda. The September 11 attacks happened at such a critical juncture and changed the whole context. On the other hand, as the previous section illuminated, following the electoral victory of Aznar, Spain
entered into the process of further restricting and securitizing its migration practices. This trend was materialized with the Organic Law 8/2000 prior to the September 11 attacks. In this setting, as interviewees mentioned, Spain did not implement far-reaching migration as well counter-terrorism practices as a direct response to the September 11 attacks (AE₄; AS₆; NSOS₂). They further added that Aznar, who expressed his continuous support to the US in the course of the ‘war on terror’, either continued to rely on existing measures or enhanced the existing ones (ibid.).

Following the Madrid attacks in 2004, this ‘continuity’ was interrupted to a certain extent. As widely commented, Aznar’s attempt to blame the attacks on ETA to secure the election victory, and his support for the US’s war on terror altered the pre-election political landscape in favour of the PSOE (Rose et al. 2007: Chari 2008). Just 3 days after the attacks, general election was held and Zapatero’s Socialist Party gained victory. Ramos (2005: 123-124) comments that:

Prime Minister Aznar’s strong support for US President George Bush’s “war on terror”, coupled with Spain’s contribution of troops to Iraq against the wishes of the majority of the Spanish population, were seen by all too many Spaniards to have caused the attacks […]

The Spanish public thought their government acted too opportunistically by fingering ETA, even after it was becoming more apparent that it was an Islamist extremist group. They believed that the government was attempting to divert attention away from the unpopular Spanish deployment in Iraq.

In such a political context, the newly elected government seemed to distance Spain from the USA and withdrew Spanish troops from Iraq. Against this stance, various scholars and almost all interviewees point to the fact that contrary to the cases in the US, the UK, Germany and in other EU member states, Spain did not prompt a direct convergence between migration and counter-terrorism practices even after the Madrid attacks as well. However, all these assertions, which will be critically assessed in the
following pages, do not mean that Spain did not reshape its migration and counter-terrorism practices nor did any anti-immigrant, anti-Muslim sentiments in relation to terrorism entered the political agenda. Especially given the profiles of perpetuators of Madrid attacks, who mostly came from North Africa, the political discourses were also contaminated by migration/security nexus in relation to terrorism (AS$_3$; AS$_2$). This became much more visible on 30 October 2007, when twenty-one people of which twelve were North African nationals, were charged because of their supposed involvement in the Madrid attack (Colas 2010: 313). Within this setting, particularly irregular immigration was linked to terrorism in the political discourses of Conservatives. For example, Aznar stated that ‘illegal immigration across the Strait of Gibraltar would be the channel that the jihadists would employ to infiltrate the peninsula, while accusing Rabat of failing to intercept, and perhaps encouraging, these illegal flows’ (Castillo Diaz 2006: 10).

Against this backdrop, the following section will explore whether/to what extent these discourses were institutionalized and thereby having led to the securitizing practices in Spain in the post-September 11 period. To this purpose, as in the EU and Germany cases, the analysis of practices governing migration will be undertaken under two headings: 1) External Securitization, 2) Internal Securitization. To reiterate, the guiding aim is to assess the changes and continuities in the chosen practices in the light of international terrorism. In doing this, the first concern is to explore whether there has been a convergence between migration and counter terrorism practices. Furthermore, other types of securitization will be also delineated in order to capture the dynamics of securitization. This framework will provide the research with a contextualized basis in order to conduct comparative analysis and understand how/whether securitization of migration happened differently and/or similarly in the post-September 11 period across the cases. Before doing this, it is necessary to take a look at the issue of terrorism in Spanish context and to analyze
whether/to what extent the post-September 11 period has affected it especially in relation to migration.

5.3. Changing Perceptions of Terrorism or Continuity with the ETA in the Post-September 11 Period?

Contrary to Germany, Spain has a very long history of terrorism, which has deeply affected its politics. In particular, the ETA had been engaging in violent campaigns to establish a separate Basque state since the 1960s. It was established in 1959 as an ‘expression of Basque ethnic nationalism’ during the crisis of Francoism (Alonso and Reinares 2005: 265). Since then, it was held responsible for killing more than 829 individuals, injuring many others and carried out kidnappings (Bourne 2010: 3). It declared ceasefires in 1989, 1996, 1998 and 2006, but subsequently abandoned them. However, on 5 September 2010, the ETA declared a new ceasefire and announced a ‘definitive cessation of its armed activity’ (BBC 20 October 2011).

In this setting, as in case of Germany, ‘international terrorism’ was not a major public and political concern in the pre-September 11 period. Only in the early 1990s, radical ‘Muslim’ groups associated to Algerian networks involved in activities outside Spain and attracted some of the attention (see Jordan and Horsburgh 2006). Consequently, similar to the case of Germany, the pre-September practices and approaches regarding terrorism were exclusively structured as a response to domestic terrorism, i.e. ETA. The framework for this counter-terrorism strategy and the definition of the terrorism were not provided by a special counter-terrorism law; rather they were defined under the Criminal Code, the so-called, Organic Law 9/1995 (Codigo Penal). According to Article 571 of the

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Criminal Code under Chapter 7 (‘On terrorist organizations and groups and on felonies of terrorism’), terrorists are defined as:

Those who are belonging, acting in the service of or collaborating with armed groups, organizations or groups, whose objective is to subvert the constitutional order or seriously alter public peace”, commit the attacks described in Article 346 (attacks on buildings or transportations or communications infrastructure with the use of explosive devices) and Article 351 (arson causing risk of injury or death) (cited in HRW 2005: 18).

Under this article, not ‘the mere act of belonging to such a group, [r]ather the commission of criminal acts by members of these groups with the above mentioned goals is criminalized’ (ibid.). Secondly, competences of related authorities, such as enforcement agencies and judicial authorities as well as rights of terrorist suspects were specified by the Code of Criminal Procedure (Ley de Enjuiciamiento Criminal). Accordingly, the Ministry of Interior, the Ministry of Defense, the Ministry of Foreign Affairs and Cooperation, the Ministry of Economy and Treasury, the Ministry of Justice and the Ministry of Presidency were identified as the principal bodies in the fight against terrorism. Moreover, National Police, Civil Guard and Basque Country Regional Police became the main law enforcement authorities in this regard. Within this institutional composition, Spain followed truly draconian measures in line with a preventive approach. For instance, as criticized by various intergovernmental and human right organizations, torture, cases of abuse, incomunicado detention and long pre-trial detention signify the repressive character of counter-terrorism strategy of Spain.89

Referring to this long-history of terrorism, various scholars point out that perceptions of terrorism, and counter-terrorism strategies in Spain were not subject to radical changes

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89 In Spanish law, it is possible to keep a person under incomunicado with a limited access to lawyer up to 13 days (Macleod 2006: 12). Furthermore, suspects may be held in pre-trial detention for up to four years. Few among these organizations regularly criticizing these practices are European Committee for the Prevention of Torture and Inhuman or Degrading Treatment of Prisoners, the UN Commission on Human Rights, HRW and the AI.
in the post-September 11 period, contrary to the case of Germany. More precisely, terrorism continued to refer to the activities of the ETA (Bezunartea et al. 2009: 3). Besides, it is argued that in the immediate aftermath of the September 11 attacks, the presumed linkage between migration and terrorism did not occupy a central place on the political agenda (AS₃; AS₈; NSOS₄; BS₁; PS₁). As detailed eloquently by Bezunartea et al. (2009:4):

The tensions and conflicts having the greatest impact on Spain do not appear to focus on immigrants from Muslim countries. These groups blend together with other groups of immigrants – the majority of whom are South American – and the threat of Islamic terrorism is blurred by the ETA attacks, street violence in the Basque country, extortion of the Basque business community, court trials of ETA members, the capture of wanted terrorists, and the permanent debate among the majority parties on the nation’s stance against ETA.

In a similar vein, Ortuño Aix (2006: 238), who conducted significant deal of discourse analysis of media representation regarding migration/security nexus, point to the fact that apart from certain association of Islam and Muslim migrants with terrorism invoked by conservatives groups,

The attacks of September 11 were in general covered by the media with political correctness, trying not to confuse Islam with terrorism. The main newspapers published articles and interviewees to demonstrate that Islam was not contrary to peaceful co-existence or against the economic development […]. The attitude adopted by the media was facilitated by the general condemnation of the attacks of New York by Muslim groups in Spain.

However, Madrid attacks being the worst terrorist incident in Spanish history drew the attention to international terrorism. The bombings led to the death of 191 persons and over 1800 injuries (Jordan and Horsburch 2006: 209). Following the attacks, it was widely believed that the perpetrators acted locally; however, in the mid-2005, the investigations pointed to the ‘operative cooperation’ between the Madrid network and Al Qaeda (ibid.
216). The Parliamentary Commission established to investigate the Madrid attacks also reflected this in its report. It was stated that even before the September 11, Spain was used as a recruitment and logistical operation site by these groups ‘to organize activities in other countries, to carry out financing operations for the international jihad, and to build up hidden or dormant cells capable of acting in the future’ (cited in Macleod 2006: 10). Subsequently, conservative voices pointing to the linkage between terrorism, migration and Islam came to be heard much more. First, especially Aznar and conservative sections of the political landscape were inclined to differentiate today’s ‘international terrorism’ from the ETA. For example, Aznar (2004) during his lecture at the Georgetown University stated that:

The great difference between all these groups and Islamic terrorism is that the latter does not seek to win power or supplant us in government; its ambitions are to destroy our societies per se and eliminate our governments and ways of life at the same time. What is more, its ideology is not content with expelling the infidels from its holy realms (that is to say, Saudi Arabia or the Gulf). The establishment of its Caliphate involves enslaving us all, in all respects.

He further added that the root causes of today’s terrorism were related to the ‘hate of modernity and Western values’ and loss of Al-Andalus by Muslims (ibid.). Most profoundly, similar concerns were raised, which directly linked the attacks to the presence of Muslim migrants in the country. For example, Reinares (2004: 30-37), one of the influential scholars working on terrorism from El Cano Institute, stated that the presence of ‘Islamic terrorists’ was facilitated mainly by the construction of 30 mosques in Spain during the 1990s as well as by the increasing number of migrants from North Africa. Likewise, certain scholars from academia warned against the increasing number of Muslims and their possible radicalization (e.g. Jordan and Horsburgh 2006). It was argued that:
Logically, the immense majority of these immigrants are honorable workers have moved to Spain to improve their future. However, it is enough that a minimal portion remains susceptible to radical Islamist discourse for the jihadists working clandestinely in Spain to attract tens, even hundreds, of new recruits. In practice, this is what happened (ibid. 222).

Particularly, Moroccan migrants were put under spotlight given their Muslim background and most importantly due to the involvement of some Moroccans in the Madrid attacks (Macleod 2006: 11). Furthermore, according to the analysis of Ortuño Aix (2006: 239), anti-immigrant and anti-Islam arguments became much more visible in media; they openly pointed to ‘problems of Islam and that of Maghrebi immigration.’

However, again interviewees and scholars point out that these discourses were not truly institutionalized (AE₄; AS₆; NSOS₂). Most importantly, contrary to the German case, even after the Madrid attacks, Spain did not induce a direct convergence between migration and counter-terrorism legislative frameworks. To reiterate, Germany adopted two ‘security packages’ amending migration-related laws and practices. In fact, both the interviewees and academics contend that Spain has already had a comprehensive strategies to counter terrorism; therefore, it did not need to introduce new ones even after the Madrid attacks.⁹⁰ To put it differently, as Saux (2007: 57) asserts that it has relied on ‘a large accumulated corpus iuris, product of the experience with “domestic terrorism”.’ This view was shared by other scholars as well. For example, Jordan and Horsburg (2006: 219) note that ‘The experience of the struggle against ETA has provided Spain with a legislative system that is both efficient and accepted by society.’ They further added that this ‘strong counter-terrorist infrastructure […] could be adapted to challenge the threat posed by al-Qa’ida and related groups in a more substantial manner. Thus the attacks on Madrid have not necessitated dramatic internal reforms’ (Jordan and Horsburgh 2005: 132). Likewise, referring to the post-Madrid developments, Macleod (2006:12) states that:

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⁹⁰ See among others MacKinnon (2007); Jordan and Horsburg (2006); Macleod (2006); and Saux (2007).
Since coming to power in March, unlike many Western governments, the Zapatero administration has not attempted to introduce any special anti-terrorist legislation. Nor did its predecessors after 9/11. As we have seen in many ways this would be superfluous, given the anti-terrorist legislation already in place since 1979s and the relative ease with which governments can get organic laws adopted to amend existing legislation.

However, even though Spain did not introduce radical changes, it adopted some reforms and organizational changes in the post-September 11 period. First, the PSOE and PP agreed to reform the existing Criminal Code in 2002. This change ‘allows the government to seek a court to dissolve any party whose activity repeatedly “violates democratic principles or seeks to damage or destroy the regime of freedoms or to hinder or eliminate the democratic system”’ (Macleod 2006:8). As commented widely, the reform was adopted ‘much more with ETA in mind than as part of the “war against international terrorism”’ (ibid.12). This is mainly because, the new law, immediately, resulted in the banning of several left-wing nationalist parties, including ETA’s political wing, formerly known as Herri Batasuna (Alonso and Reinares 2005: 269). Following the ban of this party, harsh criticisms were voiced against the government and ‘irrespective of their party allegiance, nationalist representatives agreed on defining the banning of Batasuna as a serious violation of political rights and liberties (ibid.).’91 Parallel to this, Spain carried its fight against ETA to the EU level.

In June 2003, the 15 EU member states and the ten that joined in 2004 included Batasuna in the region’s list of terrorist organizations, which would prevent past or present Batasuna members from carrying out activities and proselytizing within the EU. The Party’s delegations in Bayonne, France and Brussels, Belgium subsequently were no longer allowed

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91 It was further denounced on the ground that Article 6 of the Spanish Constitution was interpreted in a much restrictive way in order to justify the prohibition of political parties. According to this Article, ‘Political parties are the expression of political pluralism, they contribute to the formation and expression of the will of the people and are an essential instrument for political participation. Their creation and the exercise of their activities are free in so far as they respect the Constitution and the law. Their internal structure and their functioning must be democratic.’
to take part in any public acts under the Batasuna banner. When this change occurred, Spanish Interior Minister Angel Acebes remarked, “Today, the EU as a whole understand, as Spain has long defended, the fight against ETA and its entire network” (Ramos 2005: 127).

In a similar vein, another reform of the Criminal Code allowing the imprisonment of civil servants, took place in 2003. It was again argued that this reform addressed the President of the Basque Government, J.J. Ibarretxe, and of the Basque Parliament, J.M. Atutxa, because of ‘their intention of calling a referendum in Basque country to submit their proposals for a new Autonomous Statute’ (Ortuño Aix 2006: 271).

In the aftermath of the Madrid attacks, several steps were taken as well. As noted already, a Parliamentary Commission was established to investigate attacks and to offer proposals for preventing similar events. After countless hours of hearing testimonies, the Commission finalized its work in June 2005 and issued a final report. The report was approved with the votes of all members of the Parliament with the exception of the PP and ‘proposed the [following] five overarching principles on which the fight against international terrorism should be based:

• solidarity with the victims of terrorism;
• unity among all democratic political forces;
• cooperation at different levels, i.e. international and European, collaboration among the national, regional and local governments and coordination among the state police and security forces and intelligence services;
• international initiatives to eradicate the underlying causes conducive to or aiding the criminal actions of terrorists; and
• protection of civil liberties and citizens’ rights’ (Bezunartea et al. 2009:14-15)

Besides these goals, the following organizational set-ups concerning security agencies were introduced:
- An anti-terrorist planning which involves strengthening both the material means and the staff contingent of the National Police and the Civil Guard, so as to fight the terrorist threat more effectively;

- The setting up of the National Centre for Antiterrorist Coordination (Centro Nacional de Coordinación Antiterrorista: hereafter CNCA), which has recently been incorporated in the structure of the Ministry of Interior, exclusively aimed at improving the fight against terrorism;

- The setting up of the Executive Committee for the State Law Enforcement Agencies Unified Command, also under the authority of the Ministry of the Interior, aimed at improving the fight against offences and crime in general, including terrorism.

- The new Directorate General of the National Police and the Civil Guard, headed by a Sub-Secretary, has been set up to bring together these law enforcement institutions, which retain their specific competences, legal status and structural organization;

- Finally, a new Intelligence Centre against Organized Crime (Centro de Inteligencia contra el Crimen Organizado: hereafter CICO) has been created, responsible for devising an intelligence strategy to fight against all sorts of organized crime (Codexter 2006: 1).

Moreover, security agencies committed to fighting terrorism, including National Police, Civil Guard and Center for National Intelligence (Centro Nacional de Inteligencia) were reformed; their human and financial resources were increased (Jordan and Horsburgh 2006: 214; Ramos 2005: 127).

Taken together, these reforms and institutional changes do not represent a radical break. Most importantly, they are not exclusively related to international terrorism. This was also officially confirmed by stating that the amendments ‘did not arise as a result of the abrupt impact of Islamist militant terrorism in the international stage in [the post-September 11 period], but as a natural evolution in the quest to improve its overall efficiency and its operational capability’ (Celaya 2009: 20). In effect, all these measures
adopted in the post-September 11 period imply that ‘the first overall priority of the Spanish government [continued] to defeat ETA, including its political, social and economic arms and its operative commandos, infrastructure, and logistic networks’ (Ramos 2005: 131). Against this, it is reasonable to assert that even after the Madrid attacks, ‘the idea of terrorism is deeply connected with ETA and with the pre-independence groups’ and [this explains] also why it was not necessary to implement wider fields of exceptionality in the legal codes in order to face the new “Islamic terrorism”’ (Ortuño Aix 2006: 271). This picture represents an important difference compare to the EU and German cases, whereby terrorism came to be referred exclusively to international terrorism and new counter-terrorism strategies were seen as of utmost importance. However, it is still necessary to investigate the post-September 11 migration related practices. This is mainly because migration practices could be still securitized with a reference to terrorism or justified in this way without being directly amended by certain counter-terrorism practices. Or they could be further securitized in line with other societal and/or traditional security concerns. Keeping these points in mind, the following pages will look at the changes as well as continuities in the chosen practices and thereby aiming to understand the dynamics of the securitization of migration in Spain in the light of international terrorism.

5.4. External Securitization

As detailed in the previous section, Spain also securitized its practices targeting would-be migrants in the pre-September 11 period. Particularly, in the light of its accession to the EU, it put forward exclusionary and restrictive practices in order to deter irregular migrants. Imposition of visa requirements, increasing role of the Civil Guard over surveillance of borders as well as construction of fences and the SIVE signify how migration came to be administered as a security concern. In the post-September 11, Spain
both strengthened this existing framework and introduced new tools and institutional structures. The following section will look at them and explore their securitarian character.

5.4.1. Practices Governing the Entry/Admission of Migrants

As in case of Germany, short-term stay refers to entry and stays in Spain up to 90 days as a tourist or student and is governed in accordance with the rules of the Schengen regime. Again, visa schemes for long-term stay cover entries for the purposes of employment, long-term study/research and family reunification (see EMN 2009: 30). As mentioned already, the EU has already securitized member states’ practices concerning the short-term stay with the harmonization process (e.g. Regulation (EC) 539/2001 as last amended in 2006; introduction of CCV in 2009). Spain has not added major changes in this field in the post-September 11 period, especially with a reference to terrorism. It reiterated the securitization process developed at the EU level in its domestic politics (see Chapter 3).

On the other hand, concerning the long-term visa/stay for employment purposes, especially the Socialist government followed a relatively liberal approach even for the admission of low-skilled labour immigrants until the economic crisis erupted in 2008. In other words, contrary to the restrictive trend put forward by the Aznar government (as well as Germany), the Socialist government encouraged further immigration (of low and high-skilled workers) in accordance with the market needs. This was closely related to the labour shortages and aging population (BS₁), as confirmed by the Ministry of Labor and Social Affairs:

Immigrants are also extremely important in our demographics, since although immigration itself cannot offset Spain’s imbalanced population pyramid, immigrants’ gender and ages can and is helping to curb this imbalance both by increasing the birth rate and by picking up the fertility rate in Spain (Spanish Ministry of Labor and Social Affairs 2007: 11).
Moreover, such a liberal approach was framed as a way to curb irregular immigration through providing regular channels (Tone 2008; AS₅). As part of more concrete steps, the Socialist government announced in 2007 that Spain would recruit around 180,000 immigrants, who would be trained at their home countries before their departure (Keating 2007). In accordance with this aim, several bilateral agreements with African and Latin American countries (e.g. Senegalese, Gambia, Mali, Mauritania, Peru and Ecuador) were signed in the same year (see Burnett 2007). However, since the economic crisis and with the latest modification of the Organic Law 4/2000 by the Organic Law 2/2009, Spain restricted immigration of low-skilled workers into the country (PS₄; PS₃; BS₁; see also EMN 2010). Rather than terrorism, societal security concerns, including raising unemployment, social unrest and resultant political discontents were to be the pushing factors behind this change (BS₁; PS₁; AS₅; AS₆; AS₈; NGOS₄; PS₃). As one of the interviewee stated that ‘in the framework of economic crisis, migrants are seen that they are taking off the jobs of “Spanish” people’ (AS₅).

On the other hand, a more liberal approach concerning the entry of highly qualified workers remained intact even in the aftermath of economic crisis with the transposition of the Council Directive 2009/50/EC on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment (Blue Card scheme). Indeed, this approach was already in place, as Spain approved the Instructions determining the procedure for authorizing entry, residence and work in Spain for foreign nationals whose trade or profession is of economic, social or employment interest, or relates to research and development work, or is educational, which requires a high degree of qualification, or involves artistic activities of special cultural interest on 16 February 2007. This was also reflected in one of the interviewee’s words:
Even after the economic crisis, as in case of other European countries and in line with the European Pact on Immigration and Asylum, Spain continued to follow a more liberal policy towards highly qualified persons. The idea is that these persons can be used in competitive sectors; they cost nothing to the state. Therefore, they are still welcome (PS$_1$).

Hence, similar to Germany, Spain also adopted a selective approach as regard to labour immigration. Such an approach reaffirms that not all type of migration has been securitized.

Thirdly, following the amendment of the Organic Law 4/2000 in 2003, Spain started to follow a more restrictive stance towards family reunification. The aim was to restrict further immigration, namely as declared by the law, ‘to prevent chain migration, by requiring a residence permit independent to that of the sponsor before starting a new procedure of family reunification’ (EMN 2009: 20; see also Aparicio Gómez and De Carlos 2008: 158). This securitizing move was intensified with the latest amendment in 2009. This is mainly because, this amendment adopted the Family Reunification Directive, which allowed member states to restrict family reunification rights on security grounds, and the European Pact on Immigration and Asylum, which called for a tougher stance with regard to family reunification. Indeed, the latter was referred as the motto for the relevant changes in the preamble of the amended law (see Preamble of the Organic Law 2/2009).

However, it should be also noted that Spanish approach cannot be considered as harsh as that of Germany. At least it has not put forward pre-arrival integration requirements for spouses.

As regards to the asylum issue, Spain has not introduced new entry barriers as a response to terrorism. Instead, it adopted the EU level regulations, such as those relating to carrier sanctions. However, different from Germany and the EU, Spain continued to allow asylum seekers to present an application at the Spanish embassy or consulate in the country.
where the applicant is located (EMN 2009: 38). These applications are processed by the Asylum and Refugee Office in cooperation with the UNHCR office in Spain. In case a positive decision is taken, the applicant is granted visa and/or authorization to enter the country. Besides, if the applicant is at risk, he/she may be transferred to Spain during the processing of the application. In such cases, Ministry of Foreign Affairs and the General Directorate of the Police and the Civil Guard shall be informed about the situation. Though not related to terrorism, asylum issue was much more integrated into the security framework run by police and Ministry of Foreign Affairs (NSOS₂). Moreover, as reiterated by one of the interviewee working on refugees and asylum seekers stated that this is still not a preferred way for those seeking asylum seekers to enter Spain due to the long-waiting periods resulting from bureaucratic hurdles and intensified security checks (NSOS₃).

Presenting applications at the borders became another special procedure for asylum seekers. Again, the Asylum and Refugee Office, in cooperation with the UNHCR, makes a decision as to his/her admission or non-admission (EMN 2009: 39). Here, the problem is, as remarked by an interviewee and various pro-immigrant groups, including human rights organizations, those seeking asylum cannot reach Spanish southern borders to lodge their claims due to the heightened surveillance practices; they are treated simply as irregular ‘economic’ migrants and deported to third countries (NSOS₃). Similarly, in one of its comprehensive report prepared through dwelling upon case studies and testimonies of asylum seekers as well as on interviews with various legal experts and officials, the AI (2005: 2) concluded that:

Refugees are invisible in Spain. In public, the government and the media refer to them and to the asylum-seekers and irregular migrants who arrive at Spain’s Southern border (Ceuta,

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Melilla, Andalusia and the Canary Islands) as “illegal”, clandestine or economic migrants.

Not often do the Spanish press or government bodies speak of the need to protect refugees.

Furthermore, the report drew the attention to the fact that the securitarian and control-oriented practices of Spanish security forces lead to serious human rights violations and degrading treatment of asylum seekers. In such a context, the number of applications for asylum has continued to fall and Spain has one of the lowest per capita rates in the European Union: one application for every 10,000 residents (ibid. 3).²

Against this backdrop, apart from the transposition of the EU level legislative frameworks and guidelines securitizing migration directly in relation to terrorism, Spain did not introduce similar provisions to its domestic legislations concerning the admission of migrants. In other words, none of the entry schemes were directly influenced and structured by the counter-terrorism agenda. The previous years’ focus on preventing irregular migration and managing labour immigration remained intact. Besides, the blurring line between asylum seekers and irregular migrants continued to shape the Spanish approach vis-à-vis asylum issue.

5.4.2. Technologized Border Control Practices

In the post-September 11 period, technological ‘solutions’, which were already in the making, became the cornerstone of Spanish migration practices. Despite previous years’ attempts in containing irregular migration through advanced technological means, irregular immigration from Africa has kept on rising via different routes. Those would-be migrants have resorted to ever-more hazardous routes to enter Spain in the face of strengthening of border controls around the more traditional entry points (SES₁; NSOS₁). For example, as explained before, Gibraltar was previously the major corridor for irregular entries during
the early 1990s. However, due to the intensification of control around the area, the routes shifted to Ceuta and Melilla in the late 1990s (SES₁). Yet, these two enclaves were also sealed off effectively with the help of fencing systems. Optic and acoustic sensor devices, watchtowers, and surveillance cameras also supplemented this system. Today, the majority of irregular migrants have been trying to reach mainland through crossing Canary Islands, which turned into one of the main destination for those originating from the sub-Saharan countries of Cameroon, Congo, Gambia, Ghana, Guinea Conakry, Cote D’Ivoire, Liberia, Mali, Niger, Nigeria, Senegal, Sierra Leone, and Togo (Mitschell 2006). In response to these shifts in routes, Spain intensified its efforts further and introduced new technological practices.

Of those, which furthered the securitization of migration, is the completion and speedy expansion of the SIVE. As mentioned in the previous section, this system was supplemented with fences, sophisticated radars, thermal and infrared cameras, helicopters, high-powered spotlights and night-vision equipment and run by the Civil Guard (Castillo Diaz 2006: 6). It has the ability to detect the movements of pateras and any other boats millimetrically and became operational, first, on the northern coast of Straits of Gibraltar. In 2002, it was constructed on Fuerteventura with three detection centers working with ‘advanced radar technology that had proved its efficacy in the 2001-2002 war in Afghanistan’ (Carling 2007a: 326). In 2004, it was extended through the coastline from Cadiz to Malaga as well as in the city of Ceuta (Fernández Bessa and Ortuño Aix 2006:2). In the following years, namely in 2005, it became operational in a way to cover the entire Andalucian coast. Now, this system was also installed in Canary Islands and bolstered the Civil Guard’s ability to detect the boats up to 25 km of the shore (Carling 2007a: 326).

To sum up, deployment of the SIVE in the 2002-2012 period has taken place so far as follows:
2002: Algeciras (5 stations);
2003: Malaga (3 stations) and Fuerteventura (4 stations);
2004: Cadiz (3 stations), Granada (3 stations) and Ceuta (1 station);
2006: Almeria (6 stations) and Lanzarote (4 stations);
2007: Huelva (4 stations) and Gran Canaria (3 stations);
2008: Tenerife (5 stations) and Ibiza (1 station);
2009: Murcia (4 stations), Alicante (4 stations), Valencia (2 stations) and Castellon (3 stations);
2010: Balearic Islands (6 stations).

Contracts are in place for deployments in Pontevedra (7 stations) and Tarragona (3 stations) in 2011. Furthermore, plans have been made to undertake various improvements and updates to the deployment of SIVE in certain provinces, the relocation or repositioning of certain sensor stations and the modernisation and strengthening of the fixed deployment in Las Palmas (Lanzarote and Fuerteventura) over the course of 2011.

The next objective for the SIVE Project from 2012 is to complete deployment along the Mediterranean coast (Barcelona and Girona) and the Atlantic coast (A Coruña) (La Moncloa 2011).

It is worth mentioning that even though the PSOE disagreed with the initiation of SIVE in 1999 when it was first introduced by the Aznar government, as it is seen, it has continuously upgraded the system in the following years. Furthermore, this system has been backed by the EU as well. It allocated $150 million financial support to the system in order to ‘to detect boats (particularly from North Africa) containing would-be migrants that are 7 miles out to sea and then dispatch police to intercept them’ (Geddes 2003: 150).

Pro-immigrant groups and NGOs being active not only in Spain but also across the EU, continued to raise their concerns in response to the expansion of this system. They point to the impact of this system on migrants’ rights and question its compatibility with the basic rights of every individual that should be enjoyed regardless of legal status.
(NGOS₁; NGOS₃). Besides, some scholars draw the attention to the possible risks arising from the expansion of this system parallel to the shifts in the routes of irregular migration. For example, Carling (2007a: 327) points out that:

The relocation of smuggling means not only that the problem of undetected arrivals persists but also that migrants may take longer and more dangerous routes. In addition, redirecting pateras’ routes means diverting migrants away from areas where there is an established humanitarian infrastructure to receive them.

Apart from these ethical criticisms leveled against the system, the opponents of the system reiterated their concerns in terms of its practical effects. For instance, as in case of previous years, they insist that the SIVE has not produced the intended outcome, - that is reducing the number of pateras trying to arrive on Spanish shores -, as it has led to shifts in the routes of irregular migration into areas where this system is not operative (ibid.). On the other hand, proponents of this system, especially the Civil Guard, assert that this mechanism has provided important means to detect irregular movements and human smugglers; thereby contributing to dismantling of criminal networks (SES₂). Besides, having financially supported the system, the EU defined it as ‘as a prime example of a custom-built system that has proved itself effective’ (Council of the European Union 2003e: 66). Further, in response to the criticisms against the system, one of the interviewee stated that employment of such a strategy is a ‘legitimate right of any democratic state in controlling and preserving its borders’ (AS₇).

All in all, the SIVE, backed by high-tech, military-like devices as well as security forces, signify a clear securitization, especially following the technocratic approach of the Paris School as well as Huysmans. Its rationale is to keep ‘unwanted’ migrants away from the ‘European’ territory; thereby ensuring the internal security. This is also well confirmed by the Civil Guard, stating that the system not only aims at curbing irregular immigration
and human trafficking, but also protecting the European security in general (see Civil Guard web-site). Here, there is no direct reference to terrorism. Indeed, its further expansion was not undertaken as a response to attacks in New York, Madrid or London. However, a clear security continuum between irregular immigration, and the ‘European security’ in general was established.

Another project that was complemented in 2010 is the Seahorse project. This project commenced in 2006 and financed by the EU with more than 6 million euros devoted to the period of 2006-2010. It is a satellite communication network, and designed to facilitate secure information exchange on the movement of irregular migrants, location of suspicious boats and criminal activities such as drug, human trafficking and terrorism along the Atlantic coast of Africa (see EMN 2010; Artega 2007). Further, another aim is to enhance the ‘coordination of rescue operations and interception of illegal boats’ (Indra 2010). It was introduced by the leading IT Company Indra in cooperation with the Spanish Ministry of Interior. Initially, in addition to Portugal, the system included South-African states such as Mauritania, Senegal, and Cape Verde. In 2009, it extended to Morocco, the Gambia and Guinea Bissau. Currently, it became operational in 10 centers: Mauritania (2), Morocco (1), Senegal (1), Gambia (1), Guinea Bissau (1), Cape Verde (1), Portugal (1) and the Civil Guard has two of them operating nationwide from Madrid. As announced by Indra, the ‘modular design of the “solution” will allow the expansion of this system to other European or African countries (ibid.). In its web-page, Indra demonstrates very well how irregular migration was framed in terms of security by stating that:

The different centres located in the participant countries as well as the coordination centre in Grand Canary will provide information in real time for effective decision making and order transmission for global control and prevention of illegal activities in the area. The Sea Horse Network will integrate external information systems, such as the SIVE maritime surveillance system or the automatic identification system (AIS) to facilitate viewing threats.
geographically in real time [...] Among other advantages, the Sea Horse Network will give support to the police corps and institutions engaged in immigration affairs. It will contribute to the definition of an effective policy to deter drug traffic and immigration besides boosting knowledge in this field in order to guarantee collection, processing and dissemination of information as well as the best practices. Therefore it will prevent illegal immigration (ibid. emphasis added).

In addition to this, the official justification for the implementation of this system referred not only to irregular immigrants but also to criminal activities such as trafficking and smuggling that were supposed to be prevented by this system. For instance, Lieutenant Eduardo Leon from Spanish Civil Guard's Fiscal and Border Control defended this system with the following words:

We've been holding joint patrols with the Senegalese police for a number of years, but before that, the only way we could reach them was by phone [...] The phone lines to Senegal leave a lot to be desired. They can easily be intercepted, increasing the danger of alerting the criminals we want to stop in the first place [...] We can't allow these criminal gangs to profit from the trafficking (Buschschluter 2009).

He further added that, the objective is not just to deter irregular immigration, but also to save lives (ibid.). Following the Paris School, by this argumentation, the very political character of these systems is hided and they are represented as ‘mere’ technical and even ‘humanitarian’ devices, which are utilized to contain not only irregular immigration, but ‘other’ criminal activities as well as to stop the loss of lives. This proves also what one of the interviewee states:

It is important to take into account that in Spain what they are trying to do concerning border control issues is to combine human rights with security. Neither security is the dominant justification nor does security justify everything in Spain. They are trying to construct equilibrium between security and human rights (AS$_3$).
Despite the explicit securitization of the migration under this system, it was not solely and directly established as a response to terrorism. Rather migration, particularly irregular immigration was connected to a broader security framework emphasizing ‘policing and defence’.

These two systems, the SIVE and the Sea Horse Network, mainly aim at controlling physical borders. In the post-September, Spain has also taken steps in ensuring ‘policing at a distance’. More precisely, it also introduced biometric features to all passports and visa stickers in order to prevent fraud documents and ensure security in general in 2006. As regards to the biometric passports, in line with the relevant commitments in the European Pact on Immigration and Asylum, the Ministry of Interior commenced two pilot projects at the airports of Barcelona and Madrid, respectively, on 13 and 19 May 2010 in order to guarantee the effective use of biometric passports (EMN 2010: 21). Besides, in the course of the preparatory works for the implementation of the VIS, ‘7 Spanish airport frontier posts and 29 maritime frontier posts are provided with the necessary equipment (software and computer terminals) to be able to monitor the alphanumeric data and the visa sticker number’ (ibid. 82).

Last but not the least, as mentioned already, Spain was a zealous advocate of the APIS, which was also represented as a counter-terrorism tool. It has enacted the legislation required to operationalize the system with the reform of the Immigration Law in 2009. To recast, following the Madrid attacks, the EU introduced Directive 2004/82/EC establishing a legal basis for EU member states to require Advance Passenger Information data from airlines for all passengers arriving from outside the Schengen area. Indeed, the Organic Law 4/2000 already included similar requirements for carriers. Relying on both its national legislation and the EU law, Spain commenced a project for the full operationalization of
the APIS in cooperation with the SITA, another world leading IT company in 2006. SITA explains the main feature of the project as follows:

- The project began life as a pilot implementation in March 2006 and by June 2007, had processed over one million passengers. Thanks to its ease of implementation, SITA’s iBorders managed solution rapidly brought a large number of airlines online within a relatively short period of time;

- The project is based on SITA’s iBorders product, which exports APIS data to the Spanish Ministry of the Interior (SGSICS) in the formats required. Using normalized data from a central location, the solution enables border control authorities to conduct pre-arrival passenger risk assessment live, for any border entry point into Spain;

- Today, it allows the Spanish authorities to check tens of millions of passengers travelling on almost 200 airlines against lists of unauthorized or undesirable persons – including lists of wanted persons, lists of lost and stolen passports, eVisa lists, and lists of violators of immigration laws;

- iBorders also allows border control authorities to analyze patterns of passenger activity and interpret the full, harmonized, data-set prior to a flight’s arrival – a key component of high value intelligence gathering for border security and control (SITA 2010: 3).

In this context, even though the EU and Germany justified these technological solutions, including biometrics, as well as the APIS on counter-terrorism purposes, Spain mostly referred to its quest for combating irregular immigration rather than terrorism. This is also confirmed by one of the interviewee stating that Spanish has been one of the enthusiastic supporter of all these databases especially in the post-September 11 period; however, this has much to do with the its ‘fight against irregular migration’ rather than its counter-terrorism strategy (NSOS₄).
5.4.3. Militarized Border Control Practices

In the post-September 11 period, militarization of border controls reached its peak as well, though this was not always justified with a reference to terrorist attacks. Rather, as in case of other practices targeting would-be migrants, ‘fight against irregular immigration’ from Maghreb was represented as the main reason. For instance, in October 2002, Domingo Gonzales Arroya, president of the PP on the island of Fuerteventura, ‘called on the PP to back the use of the navy to force the small boats arriving on the island to turn back, while ensuring all humanitarian guarantees’ (cited in Fekete 2003: 5-6;). Between 2003 and 2008, the number of police forces dealing with migration and border control was increased by 53.4%. (EMN 2010: 21; see also Perez 2010: 114). Again, tackling irregular immigration and human trafficking were defined as the main reason behind this change (ibid.).

Besides, Spain collaborated with ships from other EU member states, including Italy, the UK, France and Portugal in order to police Mediterranean. Most profoundly, as a direct response to the September 11 attacks, North Atlantic Treaty Organization’s (NATO) Operation Active Endeavour under Article 5 of the North Atlantic Treaty was initiated for ‘patrolling the Mediterranean, monitoring shipping and providing escorts to non-military vessels through the Strait of Gibraltar to help, detect, deter and protect against terrorist activity’ (NATO 2012).

Furthermore, cooperation with African countries in patrolling maritime borders was also reinforced under bilateral agreements. For instance, in 2003, Spain and Morocco agreed on patrolling of Spanish borders; accordingly, joint Hispanic-Moroccan border patrols were established in 2004 (Lutterbeck 2006: 72). These patrols involved the troops from Maritime Service of Civil Guard and members of the Royal Moroccan police (Argerey and Hurtado 2006: 13). Besides, under this agreement, Morocco was granted 400
million euros covering the next three years in exchange of its ‘effective’ cooperation (see Cabras 2009). Similar agreements were applied to Algeria in the late 2000s through the creation of specialized police cooperation teams (EMN 2010: 22). Even though the ‘fight against irregular immigration’ was the dominant theme structuring these cooperation, Joffe (2008: 166) adds that, ‘Spain has strengthened the links between its security services and those in Morocco and Algeria’ with the view that ‘terrorism suspects and the majority of migrants ‘come from these two countries. In such a context, irregular immigration and relevant practices were integrated again into a wider securitization framework.

Moreover, since 2005, especially following the crisis erupted at Melilla and Ceuta in the autumn 2005, Spain pressured the EU to provide assistance for the protection of its southern borders. During these events, thirteen migrants were shot dead while having attempted to scale the double fence surrounding these cities and many of them were injured (Fekete 2006: 2; see also Webber 2006). These events attracted national and international criticisms directed against the actions of Spanish and Moroccan authorities. Their hardline response was harshly condemned. However, this crisis provided Spain with sound justifications to ask for the EU help (PS$_4$; AS$_2$). In such a context, the EU increased its fund for strengthening of control mechanism on the Spanish maritime borders, and decided to create a border force of almost 11.000 soldiers and police (Mitchell 2006). Maria Teresa Fernández de la Vega, the deputy Prime minister of Spain at that time, welcomed this decision and represented it as a ‘common policy on frontier control for the first time on the part of the European Union’ (ibid.). As contends by de Haas (2007), all these measures represent an important step in Europe’s [as well as Spain’s] growing externalization of its borders through the creation of “buffer zones” that distance border control activities from its own.

$^{94}$ Similarly, backed by the financial support of the EU, Spain launched similar joint operations with Mauritanian security forces in patrolling its coastal borders and sealing off the port of Nouahibou in May 2006 (Joffe 2008: 166)
frontiers, in order to decrease migratory pressure on the latter (cited in Hernandez Carretero 2008: 28).

However, the most decisive support offered by the EU came up through the Frontex, which was used by Spain to canalize financial and technical support of the EU into its migration control practices (AS₆; see also Diaz and Abad 2008: 146, Zapata-Barrero 2009: 1108). Indeed, as already mentioned, Spain lobbied hard for the establishment of the Agency at the EU level and became the ‘major promoter of the agency’ (AS₈). Particularly during the Seville Summit, which was exclusively dominated by security concerns in relation to irregular immigration, it did not only ensure the EU-wide support for the Agency, but also ‘allocation of more resources for border controls in South European countries’ (Bermejo 2009: 216). Since then, the Agency’s operations have made clear that it has become one of the most important tools especially for Southern member states in their ‘fight against irregular immigration’ rather than against terrorism. The year of 2006 verifies this assertion very well, as ‘the first real test of [Agency’s] capacities came with its operational actions in the Canary Islands in 2006’ (Mir 2007: 1). In the face of increasing irregular arrivals from Africa in Canary Islands, which was framed as an ‘immigration crisis’, and as ‘a massive invasion of illegal immigrants’ in political and media discourses, Maria Teresa Fernández de la Vega called for a meeting with the Ministers of Interior, Labour, Defence and External Relations to discuss the issue (ibid. 1-2; see also Carrera 2007: 13). After the meeting, Spanish authorities decided to intensify their efforts in ‘providing for more internment centers and reinforcing the surveillance and border security of the Spanish and African coasts. [Further they] requested the assistance of Frontex…to provide a “solution” to that “migratory crisis” (Mir 2007: 1-2.). As a brief interface, it is necessary to mention that, indeed, in every occasion, Spain has been keen to underline the EU level responsibility concerning the issue of irregular immigration. In line with this, it
has lobbied hard to carry the issue to the EU level (AS₃; AS₆; AS₈; NSOS₄). It has become successful in that regard by continuously stating that Spanish borders are the common borders and any issue relating the irregular immigration affects other member states (AS₃). In Canary case, Spain followed a similar strategy by framing irregular immigration as a common ‘problem’ necessitating a European level action (AS₃). Finally, it received the support from the EU during European Council of June 2006 through dwelling upon the Article 8 of the Agency’s founding Regulation (Council Regulation 2007/2004). This Article provides that ‘When one or more Member States face a situation that requests a bigger technical or operational assistance in relation to the control and surveillance of their external borders, it can request assistance from the Agency.’ In this light, Frontex launched the operations, called Hera I, in July 2006, and Hera II, run from August to December 2006, under the leadership of the Civil Guard in order to deter irregular immigration from African countries, including mainly, Mauritania, Senegal, and Cape Verde, to the Canaries. Experts from France, Portugal, Italy, and Germany also involved in these operations (see Carrera 2007). Despite the supranational character of the Agency, these operations were grounded on bilateral agreements between Spain and African countries. Most importantly, they were not made public; their contents remained secret (Mir 2007: 4). As detailed already, this secrecy was justified to secure the success of operations (Parkes 2006 1-2). Regarding these operations, their secrecy and enduring monopoly of member states over the Agency, one of the interviewee from Spain reiterated similar views mentioned in the EU chapter:

There is a big problem with Frontex. It is not democratically controlled. This is a very big deficit. It should be changed. The EP has not control over the agency. That is one of the big structural problems. The other thing is that one has to see that all the activities of the Frontex in Mediterranean is indeed done by the member states. Frontex is more like an agency
organizing the missions, but member states have still much responsibility. This is important in the sense that member states can hide behind Frontex and mask their unfavorable policies. Therefore, for us as a key, the member states are responsible. But we have many problems, we think Frontex should be more about human rights issues. They should really consult on UNCHR to do the legal training and so on. They cannot just say well we are only an administrative body. They have to change themselves and act in accordance with human rights (NSOS₁).

Lastly, a Government Decree of 31.08.2006 established a special coordination mechanism, called Canary Islands Regional Coordination Centre (Centro de Coordinación Regional de Canarias: hereafter CCRC). It came to be run by various actors, including ‘police corps attached to the Foreign Service, air-sea groups belonging to the Armed Forces and Frontex, the national police forces, customs services and a wide range of reception services for immigrants responsible to the Canary Islands Government’s Maritime Safety and Rescue Service and to the Red Cross, as well as other agencies that provide humanitarian aid’ (Arteaga 2007: 2). The main aim of this mechanism is, as stated by governmental authorities, to ‘fight against irregular immigration’. More specific goals are listed as follows:

- Controlling irregular immigration to the islands,
- Conducting sea patrols in cooperation with the countries in region,
- Centralizing and distributing the information and intelligence received,
- Coordinating naval, police and customs operations,
- Carrying out maritime search and rescue operations,
- Channeling flows of irregular immigrants to reception centers (ibid.).

Within this context, the CCRC emerged as one of the important mechanism to prevent irregular immigration at the possible earliest stage. Even though it does not relate to combating terrorism and mainly aims at curbing irregular immigration, as indicated by
Areaga, ‘its mission represents a new generation of security; one that goes beyond what can be defined as purely internal or external, national or international, civilian or military’ (ibid. 6).

The analysis above demonstrates that Spanish practices relating to border controls reflect also a clear militarization and securitization process. Migration issue was clearly integrated into a security architecture emphasizing policing and defence. Though this framework was not directly linked to terrorism, a continuum between migration and security (criminality) was also established.

5.5. **Internal Securitization**

In the pre-September 11 period, especially the Organic Law 8/2000 adopted under the Aznar government pushed forwards draconian frameworks regarding the practices of internal securitization. In particular, integration issue was interpreted in a very restrictive way and the emphasis was put on policing and control of all migrants. Besides, the culturalist and exclusionary citizenship regulations privileging *ius sanguis* principle marked the pre-September 11 period. In the aftermath of the September 11 attacks, Aznar continued with this existing framework through adopting three reforms; two of them amending the Organic Law 8/2000 in 2003. The other reformed the citizenship regulations. On the other hand, the Zapatero government took a number of important steps directly implicating in practices of internal surveillance targeting Muslims (though it was not fully implemented), integration, and removal. Of those, the most significant one is the Strategic Plan for Citizenship and Integration. Secondly, a new regularization programme and amendments to citizenship regulations were also introduced. Lastly, two legislative reforms concerning immigration and asylum issues adopted in 2009 had impacts over the internal securitization field. The following analysis will scrutinize these changes and try to
assess whether the chosen practices were reshaped and changed particularly with a reference to terrorism or continuity was the case in Spain in the post-September 11 period.

5.5.1. Internal Surveillance Practices

In German case, especially Muslim communities, their religious places, and organizations were targeted by enhanced surveillance practices, mainly, conducted by the police and BfV in the post-September era. As in case of Germany, though at varying degrees of intensity, the same approach entered the political agenda in Spain. First, especially Aznar drew the attention to the presumed link between irregular immigration and terrorism; thereby proposed an intensified control over Muslim migrants following the September 11 attacks ($AS_2$). After the Madrid attacks, this approach went further and was reiterated by Conservatives as well as by the newly elected Socialist government. Especially, control over mosques and imams became an important concern (Zapata-Barrero and de Witte 2007: 13). For instance, in the meantime, the newly appointed Minister of Justice Jose Antonio Alonso, called for a more control over mosques and ‘regulation of Friday prayers through the creation of a state-controlled list of vetted imams’ (Colas 2010: 326). In particular, he proposed a plan, ‘which could also see a requirement that all preachers in mosques be registered’ (Sills 2004). He justified this plan with the following words:

We really need to improve the laws to control Islamic radicals. We need to get a legal situation in which we can control the Imams in some mosques. That is where Islamic fundamentalism which leads to certain actions is disseminated […] We cannot name the Imam who is going to preside over a religious service […] We can require of the Imam or preacher of any religion that it be known who he is and what he is going to say in the Mosque or church. We are talking about a phenomenon that can create a breeding ground for terrorism that kills people (Wilkinson 2004; see also HRW 2005: 8-9).
One of the interviewee confirmed this stance as well by stating that:

In the immediate aftermath of the Madrid attacks, there were some disputes trying to link terrorism and Muslims. These mainly centered on mosques and training of imams. This is because, most of imams are not trained with democratic values but are trained outside Spain. They come here and they have difficulties to understand the society where they are living. I would say that these kind of issues will remain intact; how to manage mosques and imams continue to be important concerns, because the training of imams is not done in Spain and not supervised by one society. The discourses of imams are important for Muslim communities (AS3).

Regarding this open and direct linkage between terrorism and Muslim communities, Colas (2010: 326) comments that:

The perception that unregulated mosques in Spain, as elsewhere in Europe, are serving as recruiting grounds for violent jihadist has validated the securitization of Muslim immigrants and their places of worship, even though in Spain the evidence of this kind of connection tends to be anecdotal.

In effect, he is right in his remarks to some extent, particularly when arguing that association of terrorism with Muslims remained ‘anecdotal’. In other words, such a connection could not be explicitly institutionalized. The proposal of Alonso attracted harsh criticism from civil society and Spanish Muslim leaders (AS2). Flowingly, it was decided to apply this measure, namely registration of preachers in mosques, on voluntary basis (Jordan and Horsburg 2005: 142). On the other hand, others argue that Spain has already developed internal surveillance mechanisms before the September 11 and Madrid attacks; thereby not being in need of implementing new ones (SES2). This assertion was also confirmed by an intelligence report leaked into press in December 2005. It was validated that security authorities have been already monitoring the mosques (Jordan and Horsburg 2006: 222). According to this report, certain imams engaged in ‘hate preaching’. However,
in the opinion of Jordan and Horsburg, ‘the tendency is that these places of worship do not in fact become centers for propaganda and jihadist indoctrination, otherwise the Spanish security forces would have clamped down on them’ (ibid.). This view is linked to the fact that due to the ETA experience, such kind of acts are punished by imprisonment (ibid.). Hence, rather than introducing radical reforms for surveillance of Muslims, Spain continued with the existing framework, but through increasing the number of agents and establishing ‘task forces” specialized in monitoring the radical Islamist networks and Muslim immigrant neighborhoods since 2003 (Cabras 2009). However, as Ortuño Aix (2006: 240) pinpoints, these practices amounted to the criminalization of Muslim migrants, because they were likely to put all (Muslim) migrants under a generalized suspicion. Another point that was put forward by an interviewee is that in the aftermath of the Madrid attacks, resistance among Spaniards towards building mosques in their neighborhood became much more apparent ($A_2$). Similarly, the European Commission Against Racism and Intolerance (ECRI) (2011: 27) states that it has consistently received reports of obstacles in obtaining permission to build new mosques, particularly in urban areas where they are most needed. This has led to the phenomenon of “garage” mosques, whereby large numbers of Muslims, having no place of worship to attend, gather to pray in a private garage. Local residents are reportedly uncomfortable about the disturbance and there have been claims that illegal activities may be taking place in the garages.

To sum up, contrary to Germany, which introduced extensive internal surveillance practices targeting Muslim communities and migrants as a direct response to terrorism, Spain did not invoke such an explicit and comprehensive securitization process.
5.5.2. Integration Practices

As mentioned already, Spain, as one of the ‘recent’ migration country, did not follow a serious approach towards integration of migrants in the pre-September 11 period. On the one hand, previous steps taken by both the PSOE and the PP did not provide a clear and institutionalized strategy as regards to the issue; on the other hand, they were shadowed by culturalist aspirations. This reminds Germany’s stance particularly against guest workers. To reiterate, Germany ignored integration issue for a long time and refrained from developing long-lasting and structured practices, since these ‘guest workers’ would have been expected to return to their countries. In brief, similar to German case, Spain also conceived migration as a temporary phenomenon (PS₂; BS₁; AS₂; AS₃). Within this context, control and policing measures prevailed and integration was considered as a matter of granting ‘papers’ through regularization process (Serra 2005: 15). Besides, as detailed before, a culturalist framework privileging nationals of certain countries characterized the Spanish approach regarding the citizenship issue.

In the post-September 11 period, particularly under the Aznar government, integration of migrants came to be problematized and, continued to be dealt with short-sighted and restrictive practices (e.g. limited socio-economic rights for both regular and irregular migrants). Particularly, the PP triggered criminalization of migration in a more intensified way (AS₂). As one of the interviewee stated that: ‘In the aftermath of the September 11 attacks, Aznar government played much more with the idea of linking irregular migration with criminality and terrorism’ (BS₁). For instance, a report, published by the Ministry of Interior in March 2002, linked migration directly to crime by stating that raising number of irregular immigrants has been the main reason for the increase in crime rates (Alscher 2005: 13-14). Furthermore, Aznar advocated same discourses at the EU level, particularly during the Seville Summit in 2002. He strove to form a block at the
Aznar stated that ‘illegal immigration must be ‘combated decisively’ because it ‘generates criminal networks and mafia rings that traffic in human beings’ (ibid.). More importantly, he further remarked that ‘migration and terrorism not properly dealt with, have generated radicalism’ (ibid.). In this sense, he explicitly connected the issue of irregular immigration to criminality, and discussed it alongside the threat of ‘radicalization’. However, it is also necessary to note that such criminalization narrative targeted not only migrants from Africa, but also those from Latin America. This view was reflected in the words of an interviewee, chiefly working on governmental and non-governmental projects about the integration issue. She stated that:

You can find such kind of criminalization discourses in newspapers, political statements, or scholarly written articles. I think this is perfectly understandable. I mean this is an important characteristic of these migrants from Africa and Latin America. Starting from the late 1990s, namely with the arrival of big number of immigrants, we could see an important increase in the rate of criminality. And we have also witnessed the arrival of new kinds of criminality, for instance, kidnapping, trafficking of women, stealing and money laundry of mafias among groups coming from Africa, Latin America and lately from Eastern Europe. Or another important thing is that domestic violence. Women are killed or beaten by their husbands or pairs. That is something new in Spain, before Spain has had a very low level of criminality (AS$_8$).

She further stated that crime among migrant communities comes from more cultural than socio-economic reasons. For instance, people from Ecuador and people from Colombia suffer the same situation in Spain, but criminality is much higher among Colombians than among Ecuadorians. This is mainly because; people coming from
Colombia come from a country where violence is pervasive. Therefore, they are most likely to commit acts of violence than people coming from very peaceful countries, like Ecuador. Alternatively, you can compare people from Morocco with people from Algeria. You can find this difference among them as well. People coming from Algeria are much more violent than people from Morocco. However, we are speaking always about a small minority. I mean most immigrants are perfectly peaceful and legal. And they behave perfectly well. But there is a small minority and this minority has caused this social alarm relating integration and criminality (ibid.)

However, unlike in case of Germany, these discourses did not result in exclusionary and culturalist practices shaped directly by and with a reference to terrorism even following the Madrid attacks. Indeed, given the profile of perpetrators of Madrid bombings, who were long-term Moroccan residents, one could expect a high level of securitization of integration practices in case of Spain. Yet, contrary to expectations, this did not happen. Zapatero’s Socialist government followed ambivalent approaches. On the one hand, his ruling party put emphasis on social and economic inclusion of migrants into the Spanish society through supporting job trainings and social help concerning housing, health or education. They also implemented a large-scale regularization programme. Besides, except asylum and border control issues, immigration/integration matters were moved from the Ministry of Interior to the newly established Secretariat of State for Immigration and Emigration under the auspices of the Ministry of Labour and Social Affairs. For Pinyol (2008:1), this is related to the intention of the Socialist government to distance itself from previous years’ securitarian practices and to put much more focus on socio-economic integration. It is further stated that this change reflects:

The majority of criteria guiding migration policies and the migration system itself use the status of the Spanish labour market as a direct source of information […] The link with employment therefore forms the primary government concern in addition to the
consideration of migration as a positive factor and of social cohesion’ for the Zapatero government (EMN 2009: 27).

On the other hand, culturalist stance especially in the field of citizenship regulations was preserved and even intensified. Moreover, as commented by interviewees, economic crisis erupted in 2008 led to restriction in financial resources allocated to integration of migrants (AS₆). Most profoundly, it was asserted that socio-economic unrest feeding into anti-immigration discourses among Spaniards set back the liberal approach towards integration (ibid.).

Against this backdrop, the following analysis will scrutinize major steps taken in the field of integration in the post-September 11 period and assess their securitarian character especially in the light of post-September 11 developments. Before delving into the detail, one point should be mentioned. As noted already, under the Aznar government, no major developments were witnessed in the field of integration, apart from the reform of the Civil Code by Statute 36/2002 of 8 October concerning the citizenship regulations. In this sense, his ruling party continued to dwell upon the restrictive framework introduced by the Organic Law 8/2000. Hence, the analysis below will mostly focus on the strategies introduced during the term of the Socialist government.

5.5.2.1. Socio-Economic Inclusion vs. Integration Programmes?

Under the Socialist government, the first comprehensive integration policy, called 2007-2010 Strategic Plan for Citizenship and Integration (Plan Estrategico de Ciudadania e Integracion) was approved in February 2007. As Carrera (2009: 267) remarks that until that time, Spain has not had an institutionalized nation-wide policy strategy. This assertion is mainly related to the fact that the main innovative character of this plan was to promote cooperation for joint actions among different actors, including state, regional and local
authorities and civil society (EMN 2009: 10). By this way, it aimed at ‘mainstreaming immigrant integration issues, including reception, education, employment, housing, social services, health childhood and youth, equal treatment, gender participation awareness raising and co-development, in all relevant public policies’ (EMN 2010: 64). Most prominently, the former Spanish Secretary of State for Immigration and Emigration, Rumi Ibanez (2007: 83) stated that ‘The plan aims to boost social cohesion through the design of public policies based on equality of rights and duties for all citizens and on equal opportunities for both immigrants and Spanish citizens.’ In accordance with these goals, 2 billion euro was allocated to the entire duration of the plan with a special focus on education, reception, and employment issues (EMN 2009:10). However, this promising move was halted following the economic crisis and the emphasis, once again, was put on return programmes (see Tedesco 2010). Moreover, during the 2008 election campaign, whereby migration issue was ‘catapulted into the electoral pray by the PP’ (Chari 2008: 1072), securitarian and culturalist discourses began to be heard (similar to those in Germany). Rajoy, current Prime Minister of Spain, called for the introduction of an ‘integration contract’ to be applied to those migrants wishing to renew their one year visas (Tone 2008: 4; Beltran 2012). More precisely, he proposed that migrants must sign a contract with the Spanish state, demonstrating their commitment to ‘obey the laws, respect Spanish customs, learn the language, pay their taxes, work actively to integrate into Spanish society, and return to their country if they cannot find work after a given period of time’ (Drago 2008). The PP listed ‘Spanish customs’ under a very culturalist framework, including ‘hygiene, the prohibition of female circumcision or genital mutilation and the equality of the sexes’ (ibid.). As in case of ‘traditional’ migration countries, the PP urged for tightened integration practices and argued that most migrants, among whom the rate of criminality was high, could not fit into the Spanish society (see Tone 2008). Migrant
associations and human rights organizations harshly denounced these proposals. For instance, Javier Ramrez, a spokesman for SOS Racismo, stated that ‘the PP proposal is unconstitutional, since people’s rights are not dependent on their nationality or immigration status’ (Drago 2008).

This move emphasizing ‘culture’ and ‘values’ could not be institutionalized in the form of mandatory integration programmes, tests or contracts. However, when it comes to 2009, which was marked by the adoption of the Organic Law 2/2009, the already-established culturalist and exclusionary setting of the EU was transposed into the national law in line with the provisions of the European Pact on Immigration and Asylum. More precisely, the new law introduced Article 2, entitled ‘Immigrants Integration’. According to this Article,

Special attention shall be paid, via educational actions, to promoting knowledge of and respect for the Constitution and statues of autonomy of Spain, for the values of the EU, and for human rights, public freedom, democracy, tolerance and equality between woman and men […] in the process of integration (Organic Law 2/2009: Article 2b (2)).

The wording of this Article clearly departed from the previous years’ focus on socio-economic inclusion and drifted towards culturalist tendencies. Yet, unlike Germany and other traditional migration countries, Spain has not yet put forward mandatory integration programmes nor introduced comprehensive practices securitizing integration directly with a reference to terrorism and/or radicalization.

5.5.2.2. Citizenship Practices

As mentioned in the previous section, Spain has not introduced a specific law to regulate naturalization process; rather it has relied on Articles of the Civil Code in conjunction with the Constitution. This has not changed in the post-September 11 period.
In this setting, contrary to Germany, Spain has not introduced significant changes that have securitized acquisition of citizenship in relation to terrorism nor applied citizenship tests. However, the following amendments have consolidated the culturalist approach emphasizing language and values of Spanish society in granting citizenship rights. Besides, entitlement to citizenship rights were made dependent upon the level of integration of the applicants and certain security concerns, e.g. lack of criminality record.

First, the reform of the Civil Code by Statute 36/2002 of 8 October was approved. This reform continued to retain the basic premises of the previous regulations’ restrictive and culturalist tones characterized by *ius soli* principle, privilege granted to certain nationals and reference to ‘integration’ of applications as a benchmark for the acquisition of the citizenship rights (see Rubio-Marín 2006: 490). Indeed, the PSOE and IU alongside academics and civil society organizations insisted on facilitation of naturalization by the principle of *ius soli* and through residence-based acquisition in the light of increasing migration into the country (ibid. 492). However, they did not manage to push the reform in this direction. To detail, in the final version of the reform, historical and cultural links were reemphasized as a justification for offering a more favourable and liberal treatment (e.g. shorter residency requirements for naturalization and right to retain dual nationality), to the nationals of certain countries (see Waldrauch 2006). Besides, the reform facilitated the naturalization of Spanish descendants living abroad. In other words, they were allowed to maintain and/or to regain the nationality of their ancestors. By this way, the principle of *ius sanguinis* was reinforced (Martín-Pérez and Moreno Fuentes 2010: 21). Most importantly, ‘residence-based’ acquisition came to necessitate that the applicant for the naturalization must prove ‘good civic conduct and sufficient integration into Spanish society’ (see Civil Code: Article 22 (4)). This means: 

368
Generally good civic conduct is proven by the absence of criminal and police records in both Spain and the country of origin. Verification of sufficient level of integration is done through an interview that is not subject to particular specifications, unlike other countries where official tests must be passed on the language and culture of the applicant’s desired citizenship (EMN 2009: 51)

Here, even though the term ‘good civic conduct’ was defined with a reference to applicants’ criminal record, it is still imprecise when it comes to application. For example, ‘as for the relevance of existence of a criminal record which has been deleted, there is nothing specified’; and this is likely to make its application indeterminate (Rubio-Marín 2006: 499). Similarly, what the term of ‘sufficient level of integration’ was also not clarified in the law (see Civil Code: Article 22 (4)). According to Article 220 of the Decree on the Civil Registry (Reglamento del Registro Civil), this was defined with a reference to knowledge of Castilian or of any other Spanish language and to any other circumstances demonstrating that the applicant has adapted to the ‘Spanish culture and Spanish life styles (studies, social service in the community, etc.).’ Rubio-Marín (2006: 499) draws the attention to the possibility of broad interpretation of this provision by stating that: ‘it is the judge in charge of the Civil Registry who will informally interview the applicant and decide whether in the applicant’s view this requirement has been fulfilled’ (ibid.). In a similar vein, Martin-Perez and Moreno Fuentes (2010: 5) assert that ‘The interpretation of these vague requirements remains controversial, as it allows discretionary practices in its implementation.’ Besides, they further added that this reform came into force without taking into account the more liberal proposals of opposition parties due to the absolute majority of the PP in the parliament (ibid. 21). Indeed, ‘no public debate developed at the time of parliamentary discussions, showing once again that the question of the access of migrants to Spanish citizenship did not occupy much space in the public and political agendas (ibid.).
Another development in this field is the Law on the Statue of the Spanish Citizenship Abroad (Estatuto de la ciudadania espanola en el exterior) passed in 2006 under the Socialist government. This law, indeed, reiterated objectives of the previous reform of the Civil Code by Statute 36/2002 of 8 October adopted under the PP government. More precisely, it aimed at specifying the rights of Spaniards settled abroad (see Carrera 2009). These rights covered ‘social protection measures (in the form of healthcare, pensions, etc.), political entitlements (right to vote in national elections in Spain for candidates of the constituency of origin, and at the regional level for the parliament of the Autonomous Community from which they come from, by being able to choose constituency if their ancestors come from different region) as well as facilities to return to Spain (to the emigrants themselves as well as to the two next generations of their descendants’ (Martin-Perez and Moreno Fuentes 2010: 21). Again this reform enhanced the principle of *ius sanguinis* and reflected the main concern of Spanish policy makers – that is securing the rights of Spanish nationals living abroad.

Following this law, the Socialist government introduced another one, namely the 2007 Law of Historical Memory (Ley de Memoria Historica), which was integrated into the citizenship regulations under the so-called ‘Grandchildren’s Law (Ley de Nietos) with the support of the IU and Catalonian Republican Left (Esquerra Republicana de Catalunya – ERC). This law allowed the extension of citizenship rights to ‘those Spaniards who had to go into exile (as well as to their children and grandchildren) due to the Civil War and the Francoist regime’ (ibid. 22). Those who could prove that their parents were forced to flee Spain on political grounds between 18 July 1936 and 31 December 1955 were granted the right to citizenship. This move by the PSOE became subject to criticisms of the PP. It was argued that by this law, the Socialist government was just trying to ‘creating fidelities

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95 They represent the left-wing Catalan nationalists.
within the Spanish “diaspora” in Latin America by granting Spanish passports (and with them, full political rights) to a relatively large group which could then vote for those who responded to their demands’ (ibid. 6). On the other hand, other critics drew the attention to the discriminatory character of the law, as it favoured certain groups deemed culturally ‘similar’ (NSOS₁). Indeed, this culturalist stance was reflected in the informal statements of key political figures pointing to the possible effects of this Law ‘on the nature of the migratory flows arriving to Spain, facilitating the arrival of people who might more easily ‘integrate’ within Spanish society (Martin-Perez and Moreno Fuentes 2020: 6).

In this context, Spain diverges from the general context surrounding Germany, where citizenship rights have been significantly securitized and directly reshaped as a response to international terrorism. What is in the making in case of Spain is to deepen the culturalist framework of citizenship rights, which has been already present in the pre-September 11 period. Yet, this also signifies a securitization process, whereby certain migrants are allowed to be part of the political community; but others, e.g. Maghrebi migrants, are excluded from the same right. Following Huysmans, this also serves to keep the threatening ‘others’ from ‘host society’ and its reified cultural homogeneity.

5.5.2.3. Regularization Practices

When the Socialist government came to power, priority was given to the incorporation of all migrants into the labour market, and improvement of their access to welfare services, including education, health care, and basic social services. As a complementary to these goals, the government introduced one of the most extensive regularization programme in 2005. This programme involved almost 700,000 immigrant workers with valid working contracts (Saux 2007: 65). Of those regularized, 85,000 are the Moroccan nationals (ibid.). This policy attracted much of the criticisms both from inside
and outside the country. Even though this regularization came out of an consensus reached between the PSOE and the PP, the latter stood against it through referring to the same arguments of previous years, - that is this regularization was to have a ‘call effect’ for further immigration (BS₁; AS₂; AS₆). Similar criticisms were put forward by other European countries, especially by Germany and France (Tedesco 2010:4). They were concerned with the possible spill over those regularized immigrants across the EU. Besides, by implementing such a ‘permissive’ policy, it was argued that ‘Spain [is] harming efforts to develop a more robust common European policy concerning irregular immigration’ (Maas 2006: 3). The EC pointed to the incompatibility of Spanish’s regularization with the EU’s return policy for irregular immigration (Saux 2007: 65). Most profoundly, it was claimed that such a ‘permissive’ ‘irresponsible’ policy was to allow terrorists to gain a safe heaven, a secure legal status in the EU (AS₂). Despite these criticisms, the Zapatero government stood firm and defended their policy as an important tool to integrate irregular migrants into the Spanish society. Further, it was asserted that this regularization ‘would enhance security by bringing these workers into the open.’ (Mix 2011: 28). In this context, Dittrich (2006:19) argues that: ‘The focus of the current government, despite the Madrid bombings, is to integrate Muslims into Spanish society rather than to implement security measures aimed at a small minority of the Muslim population.’ However, as mentioned already, some scholars argue that regularization is also as a way of controlling migrants within the territory; it acts as a mechanism of surveillance as well. Despite these negative connotations of this practice, unlike Germany, the Zapatero government delinked it from security concerns and implemented it for the sake of more integration (BS₁). Nevertheless, following the economic crisis in 2008, Spain has taken a more conservative approach towards regularization. This became much apparent especially with the integration of the European Pact on Immigration and Asylum
into the national legislation with the Organic Law 2/2009. This is because, the Pact urged
to ‘put an end to the massive regularization’ of irregular immigrants (Tedesco 2010: 4). In
other words, member states are allowed to implement only case-by-case regularization
‘based on criteria duly substantiated by the competent authority, such as humanitarian,
economic and roots in the host society’ (EMN 2009: 35). Related to this, another
important point that was underlined by an interviewee is that Spain in particular and other
member states employing regularization programmes in general follow a hypocritical
policies (NSOE₆). He clarified this with the following words:

After 2 years following the European Pact on Immigration and Asylum, which called for
member states to give up large-scale regularizations, member states, such as Spain, France,
Italy, and Belgium, continued to implement such practices. There is an important gap
between what politicians say and what they do actually. At home, because of electoral
concerns, they advocate aggressive policies against migrants and invoke securitarian
discourses. Then they realize that they need migrants. In this context, there is an ongoing and
hidden regularization for those who have already jobs. They regularize many people without
revealing this to public.

Indeed, this ambivalent or so to say hypocritical position characterized the
Zapatero’s policies as well. As detailed already, his government continuously fostered the
border surveillance measures, which they criticized previously. On the other hand, they
invoked a more ‘mild’ discourse and undertook regularization programmes. In a similar
vein, even though the PP has always taken a critical stance against these programmes, they
also followed the same strategy during their terms.

All in all, even though the integration practices of Spain revealed a security mindset,
such as the culturalist framework structuring the latest focus of integration discourses or
citizenship regulation, they have been still not securitized directly with a reference to
terrorism and by extension to radicalization (contrary to the case in Germany).
5.5.3. Removal Practices

Similar to the German case, the scope and functioning of removal practices were broadened in the post-September 11 in Spain. Some of those practices were driven by the Spain’s quest for ‘fighting against irregular immigration.’ For example, as stated before, Spain put enormous emphasis on cooperation with third countries, e.g. African countries to ensure the removal of irregular immigrants in the pre-September 11 period. This strategy remained intact. New readmission agreements were signed under the PP government.96 This policy line was much more consolidated after Zapatero took the power in 2004. His ruling party intensified the cooperation with African countries on readmission agreements in the course of ‘Plan Africa’, which was first adopted in 2006. With a reference to the commitments in the European Pact on Immigration and Asylum, Spain aimed to conclude readmission agreements with sub-Saharan countries (Senegal, Gambia, Cape Verde, Guinea Bissau, Guinea and Niger) by offering them ‘development aid’ under this Plan (Ceriani et al. 2009: 15). In recent years, deportation practices under these agreements as well as those conducted unilaterally by Spanish police forces have attracted great deal of criticisms from human rights organizations and pro-immigrant groups.97 As mentioned already, their main concerns center on the fact that these deported irregular migrants under these practices are to include asylum seekers fleeing persecution; however, due to the immigration/asylum nexus, they are all treated as ‘economic migrants’ and not provided an access to the refugee protection regime. Besides, whether they are asylum seekers or

96 Under the Aznar government, Spain signed readmission agreements with Caper Verde, Mali, Guinea, Niger, Senegal and Gambia. Besides, readmission agreements with Morocco have become of utmost importance, as Morocco has also turned into one of the transit country for migrants from sub-Saharan Africa. In November 2001, Spain prepared a draft of a new agreement for the readmission of both Moroccan irregular immigrants as well as the national of third countries entering Spain via Morocco. However, Morocco was not keen to sign it, as ‘it might lead to expulsion of 30,000 – 50,000 undocumented migrants, and hesitant to make the commitment it required in terms of greater efforts to police the Moroccan coastline’ (Gillespie 2002: 65).

97 For a detailed account on the issue, see among others, HRW (2002a); and Al (2005).
immigrants wishing to enter Spain for economic purposes, ill-treatment of them by the Spanish authorities as well as excessive use of force in the course of deportation practices have been repeatedly condemned by NGOs (see AI 2005).

Apart from these ‘forceful’ removal practices, a new strategy, the so-called voluntary return programmes, was put into place in 2008 with the Royal Decree-Law 2008 of 19 September. It was adopted as a direct response to the economic crisis and enforced against irregular immigrants, mainly from North Africa and Latin America. More precisely, with such a strategy, the Spanish government aimed to ensure the return of those immigrants into their countries of origin through granting them unemployment benefits. It has been co-financed by the EU and its budget raised from 5,220,065 Euro in 2008 to 6,695,290 euro in 2009 (EMN 2010: 56). Despite intrinsic securitarian character of these removal practices, they were not justified or framed with a reference to more ‘traditional security concerns’, e.g. criminality or terrorism. Yet, Spain also introduced new legislative tools having such security connotations. These are criminality as a ground for removal and fast-track expulsion and exception to the non-refoulement principles. These will be detailed below.

5.5.3.1. Criminality as a Ground for Removal and Fast-Track Expulsion

It was already noted that in the post-September 11 era, the Organic Law 8/2000, which came into effect under the Aznar government with clear securitarian aspects, was amended on three occasions by the Organic Law 11/2003 of 29 September, Organic Law 14/2003 of 20 November and Organic Law 2/2009 of 11 December. ‘The main purpose of these amendments was to facilitate the removal of foreign nationals who commit crimes in Spanish territory’ (EMN 2009: 29). Especially, the first amendment introduced changes to Article 89 of the Criminal Code; thereby having provided a greater room to invoke
‘automatic expulsion’, when foreigners committed crimes in Spain. Besides, Article 54 (1), in conjunction with Article 57 (1) of the Organic Law 11/2003 allowed authorities to expel foreign nationals who are considered to have participated in acts against national security or acts that might prejudice Spain’s relations with other countries, as well as those implicated in activities against the public order defined as very serious under the Organic Law on Protection of Citizen’s Security.

Saux (2007: 69-70) argues that this change broadened the ground to expel foreigners, as the wording of this clause is indeterminate in a way to ‘potentially cover a wide range of acts and therefore endow the executive with wide discretion.’

Following the Madrid attacks, the PP called for ‘substantive changes to existing penal and administrative statutes in order to facilitate the… eventual expulsion of foreign terrorist suspects’; on the other hand the PSOE and IU, constituting the other two important blocks in the Parliament, urged to continue with the existing legislation (Colas 2010: 327). Even though the PP’s proposal was dismissed, the aforementioned provisions started to be invoked more often than before as a tool in the fight against terrorism (PS4; AS2; NSOS2). For example, following the Madrid attacks, two Moroccan nationals were expelled on security grounds, where there was no sufficient evidence to bring them to trial, but ‘there was “clear evidence” of their relationship to the attacks (HRW 2005: 11). A high level of police official explains the situation with the following words: ‘There is before and after 11-M. What can we do when there is not criminal proof to bring a person to trial, but all of the evidence indicates that [he or she] was aware of, fomented or supported terrorist activities (ibid.). One of the interviewee echoed these arguments as well. He stated that in the face of terrorist threat, preventive measures became much more necessary to get rid of possible threats through circumventing certain judicial constraints (SES2). As regards to these expulsions, newly appointed Interior Minister, Alonso, made similar comments and
stated that these measures ‘are legal, legitimate and obligatory; we must have the possibility of expelling [individuals] when this proof [of links to international terrorism] exists’ (HRW 2005: 11). In this context, as in case of Germany, Spain also dwelled upon the administrative law rather than criminal law to remove those considered security threats. Yet, human rights organizations have harshly criticized the continuous application of these clauses (administrative law) to remove migrants to countries that do not have good human rights records (NSOS). More specifically, according to those organizations monitoring removal practices of Spain, ‘“the Law on Foreigners” does not set out specific guarantees for persons subject to expulsion, such as an automatic review of their risk of torture in their country of origin’ (HRW 2005: 12). Against this, in the meantime, Jose Antonio Alonso, commented that ‘he was not aware of any case where [the expelled individuals face torture or ill-treatment upon return]’ (ibid.)

Another restrictive and securitarian change came up with Article 58 (1) of the Organic Law 2/2009. More precisely, this Article opened the way to ‘expel the accused – even without his/her consent – where the punishment for the crime is under six years of prison’ and to dismiss the possibility of imprisonment (Saux 2007: 69-70). If the sentence is longer than six years, the expulsion may be again ordered following the completion of two thirds of the punishment (Frauser 2006: 10). Most profoundly, those, who were expelled under this clause, are forbidden to return to Spain in the following 10 years. Saux (2007) argues that especially the prohibition of return clause is an important obstacle in the process of re-integration of expelled migrants into the society after their return to Spain. In this sense, she further adds that this measure has a ‘retributive, general preventive character’ (ibid.). Indeed, this entry-ban was also justified with a reference to the EU Return Directive, which was transposed into the domestic legislation with the Organic Law
2/2009. Despite the lack of direct reference to terrorism, this change also contributed to the securitization of migration in the post-September 11 period.

Lastly, a recent Circular on ‘police procedures’ issued on 25 January 2010 by the Ministry of Interior authorized police to conduct ‘fast-track deportations which should be implemented with ‘maximum brevity’ through procedures which should be as secret as possible so as to avoid any obstacles lawyers might place in the way of deportation order’ (Fekete 2011: 95). Giovanna Bustillos, Coordinator of the Association of Bolivian Migrants in Spain, states that expulsion ‘now takes no more than ten days and sometimes only hours, when before it took up to forty days’ (cited in ERA 2010: 6). Human Rights Organizations and pro-immigrants groups raised again their concerns on the ground that these fast-track deportations would impede legal safeguards against deportation; thereby curtailing the possibility to stand against these measures (see Aparicio Gómez and De Carlos 2008).

### 5.5.3.2. Exceptions to the Non-Refoulement Principle

Spain introduced the Organic Law 12/2009 of 30 of October 2009 (the Asylum Law), governing the right of asylum and subsidiary protection. This law fully implemented the EU’s legislation and policy on asylum, e.g. Qualification Directive. As detailed both in the EU and German cases, the Qualification Directive embodied exceptions to the prohibition of non-refoulement principle and accordingly, allowed member states to expel those in need of protection on security grounds. In line with this Directive, the Organic Law 12/2009 established that:

In any event, the right to asylum (or subsidiary protection) shall be denied to: a) those, who, for well-founded reasons, constitute a threat to Spain’s security; b) those who were convicted
of a serious offence and who constitute a threat to the community (Organic Law 12/2009: Sections 9 and 12).

This part of the text became subject to intense debate during the negotiation process at the Parliament. Especially, the UI voiced their concerns as regards to the vague content of these provisions and pointed to their possible misuse and broad application in order to justify denials of protection to those considered security threats to Spain (NSOS₄).

Removal practices represent both continuity and change. ‘Fight against irregular immigration’ and removing ‘unwanted’ migrants, including asylum seekers by securitarian practices remained intact. On the other hand, fast track removals with a reference to criminality entered the political agenda. Except official discourses justifying these changes with a reference to terrorism, these measures were not explicitly adopted as a direct response to the post-September 11 developments. Rather, there emerged an indirect association between migration and terrorism in the course of these removal practices. Lastly, a more direct linkage between migration and terrorism was institutionalized as regards to the asylum issue. However, this came into being as a result of the EU harmonization process (i.e transposition of the Qualification Directive).

5.6. Conclusion

The analysis of Spanish case demonstrates continuity rather than a radical change as regards to the securitization of migration in the post-September 11 period. More precisely, contrary to the German case, association of migration with terrorism was not directly and explicitly institutionalized even after the Madrid attacks. Despite certain attempts towards this direction, particularly, invoked by the PP as well as by certain members of the Socialist Party, Spain did not introduce counter-terrorism practices directly converging with that of migration. However, this does not imply that Spain did not securitize migration.
further nor delink it from terrorism completely. It continued to follow previous years’ more diffuse, technocratic-based securitization in a more intensified way. Particularly ‘fight against irregular immigration’ was connected to criminality and integrated into a broader security framework emphasizing policing and defence. Besides, culturalist framework surrounding citizenship regulations and societal security concerns especially following the economic crisis marked this securitization process in the post-September 11 period. Lastly, by transposing the EU legislative framework and guidelines into its domestic politics, Spain ‘enhanced’ this securitization process.

In this broader picture, especially, the external securitization is much more visible and present than that of the internal. Intensification of entry barriers against migrants (except the highly qualified migrants), technological practices and ‘increasing militarization of migration control in the Mediterranean, in the sense of deployment of semi-military and military forces and hardware in the prevention of migration by sea, and intensification of law enforcement co-operation between the countries of north and south of the Mediterranean’ (Lutterbeck 2006: 59) signify this securitization process. To put it differently, the broadening role granted to the Civil Guard, war-like technological devices as well as the cooperation with Frontex pointed to ‘institutionalized and formalized securitization’ practices (Cross 2009: 178). In this respect, following Huysmans and Leonard, migration issue came to be handled by utilizing practices, including tools and institutional structures, which were previously employed against traditional security concerns. As detailed already, terrorism was not the dominant theme shaping and pushing for these practices. Instead, especially irregular immigration constituted the focus of this securitarian framework; ‘by virtue of its association with human smuggling and trafficking as well as other forms of cross-border organized crime, it is seen as a threat not only to national welfare systems and cultural or national identities but also do domestic peace and
stability’ (Lutterbeck 2006: 59). In brief, a continuum between irregular immigration and ‘transnational challenges, which are seen as a ‘threat’ to European states and societies’ was established (ibid. 69). However, it should be also added that these practices were justified to prevent migrants from risking their lives in the Mediterranean was. Needless to say, in this process, there is a mutual relationship between Spain and the EU. As being located at the external borders of the EU, Spain both came to be under pressure to fortify its borders further and found the opportunity to capitalize on the EU’s support.

As regards to the internal securitization, despite certain attempts to securitize Muslims and mosques in relation to terrorism particularly following the Madrid attacks, these moves could not be successfully and explicitly institutionalized. Politics of integration demonstrates also lack of direct convergence between migration and terrorism. Unlike Germany, especially after Zapatero’s party came to power, socio-economic integration of migrants was emphasized. Nevertheless, integration ‘problem’ was also inserted into the political agenda and citizenship practices continued to retain culturalist and exclusionary approaches. On the other hand, even though regularization issue came to be shadowed by securitarian discourses, and blended with the aim of controlling irregular immigration, it also served to delink migration from traditional security concerns. Lastly, the economic crisis and ‘fight against irregular immigration’ structured the removal practices, as materialized through the so-called voluntary return programmes or readmission agreements. Yet, broadening ground for expulsion in line with the notion of criminality as well as utilization of migration legislation rather than Criminal Code to remove migrants deemed to endanger security signify the securitization process, though this process is not exclusively related to terrorism. However, Spain replicated the securitization process developed at the EU level by transposing the Qualification Directive.
into national legislation; thereby institutionalized the association of asylum with terrorism in the domestic sphere.

Through undertaking a comparative analysis of the German and Spanish cases, the next chapter will try to scrutinize differences as well as similarities in the securitization processes across the cases and capture the dynamics of securitization in a more detailed way.
6. Comparative Analysis: Securitization of Migration in Germany and Spain in a European Context

The following section will compare the securitization of migration in Germany and Spain in the post-September 11 period and with a reference to the EU level analysis. It is based on several key issues and discussions. Foremost, at the core of them is the question of whether there is a direct and explicit convergence between migration and counter-terrorism practices and agendas in these countries. If not, what is the driving motif of the securitization? What are the similarities and differences in their securitization processes (both before and after the September 11)? How has the EU impacted these differences and similarities? Can the similarities be attributed to the Europeanization process and resultant securitization process? On the other hand, how can the differences be explained?

As already stated, this comparative analysis was largely built upon the existing literature and the outcome of the empirical investigation. The previous works were used to select certain ‘facts’ or determinants (see Lim 2006). Besides, the theoretical and analytical framework driving this research provided also a ‘conceptual template with which to compare and contrast results, rather than to use a priori categories into which to force the analysis’ (Morse 1994: 221). On the other hand, the outcome of the empirical investigation, particularly, interview data, were utilized to assess differences and similarities in the securitization process. As mentioned before, the interviewees were asked to assess the situation in Germany and Spain regarding the securitization process. Their opinions, then, were also analyzed and interpreted through looking at the relevant literature as well as at the outcome of the research. Taken together, these analyses provided the framework for the comparative analysis.
Table 6.1. Practices of the Securitization of Migration: EU Case

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<td></td>
<td>- CCV</td>
<td>- SIS I – SIS II</td>
<td>- Frontex</td>
<td>- The EU Strategy for Combating Radicalization and Recruitment to Terrorism</td>
<td>- CBPs</td>
<td>- Asylum Qualification Directive</td>
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<td>- Asylum Procedures Directive</td>
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<td>- Communication to the EP and the Council concerning the Terrorist recruitment: addressing the factors contributing to violent radicalization</td>
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<td>- European Pact on Immigration and Asylum</td>
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Table 6.2. Practices of the Securitization of Migration: German Case

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<th>Securitization</th>
<th>Admission Practices</th>
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<tr>
<td>External Securitization</td>
<td>- New Grounds to Deny Issuing Visas</td>
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<td>- Background Security Checks</td>
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<td>- Intensification of data exchange between security and migration authorities</td>
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<td>- Facilitation of the Entry of Highly-Qualified Workers</td>
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<td></td>
<td>- Pre-departure control measures for spouses abroad</td>
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<td></td>
<td>- Continuation of entry barriers for asylum seekers, e.g. visa requirements and carrier sanctions</td>
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<tr>
<td>Technologized Border Control Practices</td>
<td>- Biometric features</td>
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<td>- Modification of the AZR with the security package</td>
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<tr>
<td>Militarized Border Control Practices</td>
<td>- Broadening role of the Federal Police (former Border Police)</td>
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<td>Internal Securitization</td>
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<tr>
<td>Internal Surveillance Practices</td>
<td>- National Security Vetting Process and widened data exchange</td>
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<td></td>
<td>- Ban of religious and foreigner organizations</td>
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<td></td>
<td>- Intensified surveillance over mosques and imams by BfV</td>
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<td>- Grid Search</td>
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<tr>
<td>Integration Practices</td>
<td>- Mandatory Integration Programmes,</td>
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<td></td>
<td>- Citizenship tests, refusal of citizenship on security grounds,</td>
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<tr>
<td></td>
<td>intensified background checks for citizenship applicants</td>
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<td></td>
<td>- German Islam Conference</td>
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<td>- Regularization Programmes</td>
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<td>Removal Practices</td>
<td>- New Grounds for Expulsion (regular and discretionary expulsion)</td>
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<td></td>
<td>- Amendment Act (deportation of those deemed to be hostile to integration)</td>
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<td>- Deportation Order</td>
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<td>- New Exceptions to the Principle of Non-Refoulement</td>
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<td>Table 6.3. Practices of the Securitization of Migration: Spanish Case</td>
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<tr>
<td><strong>External Securitization</strong></td>
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<td><strong>Admission Practices</strong></td>
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<tr>
<td>- Bilateral Agreements with African and Latin American Countries for recruiting workers until the economic crisis</td>
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<td>- Facilitation of the Entry of Highly-Qualified Workers</td>
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<td>- Restriction on the right to Family Reunification</td>
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<td>- Carrier Sanctions</td>
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<td>- Blurring line between asylum seekers and irregular immigrants</td>
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<td><strong>Technologized Border Control Practices</strong></td>
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<td>- Expansion of the SIVE</td>
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<td>- Seahorse Project</td>
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<td>- Biometric features</td>
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<td>- Preparatory works for the implementation of the VIS</td>
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<td>- Projects for the full materialization of the APIS</td>
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<tr>
<td><strong>Militarized Border Control Practices</strong></td>
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<tr>
<td>- Broadening role of the Civil Guard</td>
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<td>- Joint patrolling with EU member states and third countries</td>
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<td>- Frontex operations</td>
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<td>- Establishment of the CCRC</td>
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<td><strong>Internal Securitization</strong></td>
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<tr>
<td><strong>Internal Surveillance Practices</strong></td>
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<tr>
<td>- Establishment of ‘task forces’ specialized in monitoring the radical Islamist networks and Muslim immigrants</td>
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<tr>
<td><strong>Integration Practices</strong></td>
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<tr>
<td>- Strategic Plan for Citizenship and Integration emphasizing socio-economic inclusion of migrants</td>
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<tr>
<td>- Reform of the Civil Code by Statute 36/2002,</td>
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<td>- Law on the Statute of the Spanish Citizenship Abroad,</td>
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<td>- Law of Historical Memory</td>
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<tr>
<td>- Introduction of a large scale regularization in 2005</td>
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<tr>
<td><strong>Removal Practices</strong></td>
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<td>- Deportation under readmission agreements</td>
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<td>- Voluntary return programmes</td>
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<tr>
<td>- Criminality as a ground for removal and fast-track expulsion</td>
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<tr>
<td>- Exceptions to the non-refoulement principle</td>
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6.1. Similarities: Patterns of Convergence

1) Migration has been securitized across the EU and national cases

Regardless of the impact of the September 11 and subsequent attacks, migration has been securitized in Germany, Spain as well as at the EU level (both in the pre and in post – September 11 period). This securitization took ‘the form of building a general context of unease within which it [was] justified to introduce a particular governmental technology’ as well as exclusionary and culturalist practices linking migration directly to security concerns (Diez and Huysmans 2007: 10; see also Bigo 2002). In other words, contrary to the arguments of the Copenhagen School, which define the securitization process in ‘emergency’ and/or ‘existential’ terms, this process came into being through ‘the institutional and discursive intervening of different policy areas by means of applying routines, institutionalized knowledge, and technologies to the regulation of these areas’ (Diez and Huysmans 2007: 9-10). Within this process, various practices, including policies, policy tools, instruments, operational and institutional settings, were introduced into the field of migration. Taken together, these practices and the way to utilize and justify them conveyed ‘the idea to those who observe them directly or indirectly, that the issue they are tackling is a security threat’ (Leonard 2010b: 237). For example, at the EU level, parallel to the European integration process, including the establishment of the Single Market and Schengen regime, increasing harmonization in border control issues, etc., the EU started to implement securitarian practices, such as restrictive visa and asylum policies, technologized border control practices as well as increasing police cooperation across the member states. At the focus of these practices, the aim was to ensure the internal security in the face of abolition of internal border controls. Following Huysmans, these practices
integrated migration issue into a security framework emphasizing policing and defence with the aim of keeping ‘unwanted’ migrants away from the ‘European territory’. Besides, a security continuum between migration and wide range of security concerns was established. More precisely, migration was not only linked to more ‘traditional concerns’, such as organized crime, but also to societal issues, including cultural identity and welfare state. In particular, ‘fight against irregular immigration’ and the so-called bogus asylum seekers were the leading motifs structuring the reasoning of these practices in the pre-September 11 period. Following the attacks, abuse of these channels by terrorist and radicalization issues started to shape the agenda as well. Migration practices turned into tools for the fight against terrorism. In other words, migration and counter-terrorism practices and agendas converged in an explicit and direct way.

On the other hand, national case studies also demonstrated that member states both replicated the securitization process developed at the EU level (both in the pre- and post-September 11 periods) and formed their own securitizing practices. For example, there emerged a clear shift from a liberal asylum and labour immigration practices into a more restrictive and securitarian ones in Germany. In this process, Germany also adopted various securitizing practices, such as restrictive and deterring measures against asylum seekers and migrant workers, technologized and militarized border control mechanisms as well as culturalist and exclusionary integration practices. In the post-September 11 period, this process intensified with a direct reference to terrorism. Namely, the counter-terrorism agenda directly structured migration-related practices in case of Germany. Spain also started to implement restrictive and security oriented migration practices with the aim of curbing irregular immigration. Especially control and policing of migration prevailed over integration issues and technologized and militarized border control practices intensified considerably. In the post-September 11 period, this securitization process has been
furthered, though not exclusively and directly structured by the post-September 11 developments.

This similarity regarding the securitization of migration should be read alongside the European integration process. Besides certain transnational developments prompted the restrictive trend across all member states. More precisely, as analyzed in detail, following the establishment of the Single Market and the Schengen Security regime, member states were required to put emphasis on external control practices as part of compensatory measures. Especially, Spain felt itself under pressure to introduce restrictive and securitarian practices to deter both regular and irregular migrants in the light of this Europeanization process. On the other hand, oil crisis of 1970s, having resulted in economic downturn and unemployment as well as the end of the Cold War having induced substantial amount of asylum applications, all fed into restrictive and securitarian practices particularly across traditional migration countries.\(^{98}\) Moreover, in accordance with the rise of settled migrants in these member states, anti-immigrant discourses and violent attacks entered into the political agenda (PE\(_5\); AE\(_6\); NSOE\(_5\); PG\(_2\); BG\(_4\); AS\(_3\)). As the analysis demonstrated that anti-immigrant, right-wing parties and even the left-wing ones, associated the emerging unrest among ‘native’ population to the rising number of migrants and used this alleged linkage to justify restrictive and securitarian approaches (ibid.). In the post-September 11, the terrorist attacks in New York, Madrid and London together with the dramatic events, such as murder of Van Gogh, caricature crisis, or riots in several European countries, (e.g. France and the UK) strengthened the hands of anti-immigrant groups and the securitization process (AG\(_2\)). Lastly, the latest economic crisis called for restricting migration further in the face of financial problems severely witnessed across the EU. However, it should be also noted there are also pragmatic concerns stemming from

\(^{98}\) This argument was put forward by almost all interviewees across the cases. Besides, this is a major argument in the literature (see few among others Huysmans (2000/2006a/2006b)
aging population and market demands for skilled as well as in certain sectors, for unskilled/semi-skilled labour force in these securitization processes. This is especially more relevant for the selective securitization which will be detailed below.

2) Migration as a whole has not been securitized

In all three cases, migration as a whole has not been securitized. In other words, certain types of mobilities and certain groups have become subject to the processes of securitization. For example, both before and after the September 11 period, though at a different level of intensity, irregular immigrants, asylum seekers, refugees and migrants coming from ‘culturally’ dissimilar and poor parts of the world constituted the major sources of anxiety. This was well reflected, for example, in the so-called ‘black’ and ‘white’ lists of the EU’s visa policy. Similarly, in Germany, ‘ethnic’ Germans were dealt with liberal practices regarding entry, stay and naturalization. In addition to this group, those coming from the OECD countries, Japan, the US, Australia, Canada and the New Zealand started to enjoy also ‘positive discrimination.’ For example, they have not been addressed by strict entry regulations and mandatory integration programmes. Similarly, in Spain, citizens of Latin American countries and descendants of Spanish emigrants have been dealt with a liberal approach especially regarding the citizenship issue. They have been conceived to be ‘culturally similar’. What is common among these cases is that following the September 11 attacks, ‘Muslim migrants’ were framed in terms of security, albeit at varying degree of intensity. The mobility and presence of these migrants have been easily fabricated into a security issue. On the other hand, liberal approach towards highly qualified migrants remained intact in the post-September 11 period and even after the economic crisis. Interviewees associated these preferential treatments towards highly qualified migrants with pragmatic concerns (NSOE₆; NSOE₇). In one of the interviewee’s words, ‘in the post-September 11 period, both member states and the EU, on the one hand,
promoted selective migration and facilitated the entry of qualified labour force. On the other hand, they put emphasis on security as regards to the movement of asylum seekers, family-class migrants as well as poor migrants from “underdeveloped world” as they are supposed to be burden for the welfare state and national economies’ (NSOE₂). The Blue Card Directive was indicative of this approach at the EU level. This stance was also replicated in member states as well. For instance, in case of Germany, first Green Card Scheme and later liberal approach towards highly qualified workers under the Immigration Act exemplified this selective securitization. Spain has also adopted similar approaches towards this group even after the economic crisis. Parallel to this, because of the aging population in Germany, Spain as well as across the EU, migration could not be wholly securitized. On the contrary, it came to be seen as a way out to offset population decline and to meet market demands especially in sectors necessitating skilled labour force. This is also confirmed by an interviewee stating that ‘We need skilled migrants. If you look at the demographic trends across the EU, it becomes clear that in ten years, we will need ten million migrants to offset the shortages in the labour markets’ (ibid.). Another interviewee also pointed out similar views and remarked that:

We know that most of the European countries have huge shortage of manpower, they have not enough people working in several sectors necessitating skilled labour force to create wealth. Their population is aging; they have not enough social security and they have not enough power to produce the same level of welfare that they have had before. However, they do not react to this problem in a correct way; they overemphasize security; follow restrictive practices. They do not want people to come here without proper checks (NSOE₂).

Likewise, another ‘expert’ commented that:

The EU has faced a dilemma. On the one hand, member states promote restrictive migration policies and try to expel those deemed threat; on the other hand, there is problem
with the demographic structure. We need many people from outside the EU to offset the population aging. I can understand the Spanish regularizations, because we need migrants to keep everything is going on. We cannot stop everyone. Then, it seems like politicians are trying to develop some of kind of selective immigration. We need you because you are a teacher or a doctor. Maybe in this way, we also ‘contribute’ to the brain drain in third countries (AE$_3$).

In brief, societal security issues became determinant in the selective securitization. In other words, highly-skilled migrants as well as migrants meeting market demands and those coming from ‘rich’ parts of the world were not securitized. Moreover, ‘cultural similarity’ came to be decisive in the process of the securitization.

3) **Both Germany and Spain supported the Europeanization process in the field of migration and incorporated the relevant legislative frameworks into their domestic politics and, therefore, replicated the securitization process developed at the EU level. On the other hand, they also contributed to the securitization process at the EU level by carrying their security concerns to the supranational level.**

Both in the pre – and post – September 11 periods, the securitization process developed at the EU level restructured particularly the practices regulating the external sphere across member states. In such a context, Germany and Spain supported most of these measures at the EU level and incorporated them into their domestic politics and thereby replicating this very securitization process at home. For example, as stated by Ette and Faist (2007: 21):

Germany was seen as the ‘model student’ of European integration, actively participating in the process of European integration in general and showing particular interest in a common European immigration policy. In line with this image, European activities during the 1990s profoundly altered Germany’s immigration policy.
As discussed in detail, the ‘asylum compromise’ of 1993, which radically altered the asylum practices of Germany in accordance with the restrictive and securitarian approach (i.e. Dublin Convention and London Resolutions) set up by the EU, exemplified this impact of the Europeanization over Germany’s politics of migration. Moreover, its increasing focus on the protection of external border controls represent another indicator of this influence. Similarly, prior to and after its accession to the EU, Spain started to reshape its migration practices parallel to the Europeanization process. Restrictive visa policies, technologized and militarized border control practices reflected this interaction between the EU and Spain.

However, the impact of Europeanization is principally important when it comes to the redefinition of migration practices in the post-September 11 period. As the EU Chapter detailed, existing migration-related practices were reshaped and new ones were formulated as a response to ‘international terrorism’. To reiterate, representation of visa policy as a tool of counter-terrorism and resultant stricter regulations in the field, denial of family reunification on security grounds (Family Reunification Directive), technologized border control practices (introduction of biometric features, changes to the SIS, introduction of new databases, e.g. SIS II, VIS, API, PNR agreement with the US) as well as militarization of border controls (establishment of Frontex) all contributed to the securitization of migration across the member states. Moreover, in the post-September 11 period, the EU’s power and competences in migration matters continued to enlarge in a way to produce binding and non-binding measures implicating in the internal sphere. The proposed amendment to the Eurodac in line with the counter-terrorism strategy, introduction of guidelines for enhanced surveillance of Muslims and their religious places, culturalist and exclusionary integration approaches with a special focus on ‘radicalization’ (Long-Term Residence Directive, EU Counter-Terrorism Strategy and CBPs), and introduction of a
legal framework to deport long-term residents, irregular immigrants and asylum seekers, again, on security grounds (Long-Term Residence, Return and Asylum Qualification Directives) are among those fostering the securitization of migration in the internal sphere (see Table 6.1.). These changes were incorporated into the domestic political structures, though at a different level of intensity. By this way, the EU level securitization particularly in relation to terrorism was replicated by member states, namely by Germany and Spain.

On the other hand, both Germany and Spain carried their specific national interests and security concerns to the EU level and supported supranational initiatives in accordance with them. For example, Germany shaped the integration approach included into the Long Term Residence Directive and European Pact on Immigration and Asylum parallel to its exclusionary practices. The term integration ‘conditions’ rather than ‘measures’ was inserted into the EU framework at the initiative of Germany together with other traditional migration countries, e.g. the Netherlands and Austria. On the other hand, Spain also lobbied hard for the enforcement of practices targeting irregular migration at the EU level (e.g. Frontex). It pointed to the shared responsibility of EU/member states’ in guarding the EU external borders (Spanish coastal borders) and managed to receive technical and financial support from the EU. Moreover, both Germany and Spain advocated enlargement of the existing databases and introduction of the new ones with a reference to security. Referring to this securitarian moves of member states at the EU level, an interviewee commented that:

Especially following the September 11, some member states used the ‘opportunity’ provided by threat of international terrorism to solve their national problems at the EU level. For example, Spain turned to be a zealous advocate of the harmonized practices at the EU level because of its concerns relating to the irregular immigration (AE₁).
4) The line between right and left wing parties has been blurred when it comes to the securitization of migration practices.

It is widely believed that left wing parties are considered to follow a pro-immigrant stance. On the other hand, right wing ones are inclined to support more exclusionary and restrictive approaches vis-à-vis migration issue. Indeed, this distinction was proved by the statements of politicians during the interviews. In all three cases, those belonging to right wings (as well as liberal parties), justified the securitization of migration with a reference to terrorist threat, and societal security concerns. On the other hand, Social Democrats, Greens and Left parties displayed a critical stance vis-à-vis the practices implemented both before and after the September 11 attacks. However, the empirical case studies revealed that this distinction cannot be always sustained and it is not so rigid. Even though especially Social Democrats have advocated more liberal discourses in the face of restrictive ones of right-wing groups, they have implemented and/or supported similar practices. This is evidenced, for example, by the ‘asylum compromise’, which came into effect through the supports of the SPD. In the post-September 11 period, it is mirrored particularly in the stance of the SPD-Green coalition in the course of the introduction of ‘security packages’ and the new Immigration Act. In particular, the ‘security packages’ were passed through with the votes of all parties. Besides, even though the SPD and Greens expressed their discomfort with the convergence of terrorism and migration agendas during the legislative process of the new Immigration Act, they drifted towards a more restrictive stance following the Madrid attacks. Similarly, in case of Spain, even though the PSOE criticized the police and control oriented practices of the PP, they followed the same practices when they were in power. For example, as detailed, Spanish migration practices have been continuously securitized under the PSOE from the 1980s. Again, after having come to power, Zapatero contributed further to the on-going
securitization process particularly by expanding the scope of technologized and militarized border control practices. Besides, Zapatero government pushed forward the culturalist framework for the citizenship regulations. Likewise, although the PP has criticized regularization programmes in every occasion, they also employed the same strategies during their terms of office.

Moreover, another commonality is that Otto Schilly (SPD) and José Antonio Alonso (PSOE), who were Interior Ministers, invoked the securitarian discourses and practices during their post. This outcome was also well confirmed by one of the interviewed politicians arguing that:

Social democrats across Europe are in favour of similar discourses and practices that are supported by Christian and other right-wing parties, even if they are in opposition. In Germany, Austria, as well as in many of the European countries, they backed similar securitarian policy packages. In short, the line between Social Democrats and Christian Democrats has been blurred when it comes to the implementation of practices. For example, possible abuse of asylum channels by economic migrants and in the aftermath of the September 11, by terrorists became the most appealed reference point by both wings. On the other hand, radical left parties and to some extent Greens, have still tried to counter these practices (PE₃). However, it should be also noted that it is not clear what would happen when these ‘real’ left parties or Greens would come to power. In other words, it is questionable whether these groups would be able to promote a radical departure from the established and deep-rooted securitization process.

To conclude, these convergences among the cases should be understood in accordance with the European integration process, which prompted harmonization of the
‘politics of migration’ and practices across member states. In other words, the on-going Europeanization process led to

‘processes of construction, diffusion and institutionalization of formal and informal rules, procedures, policy paradigms, styles, ‘ways of doing things’ and shared beliefs and norms which are first defined and consolidated in the EU policy process and then incorporated in the logic of domestic (national and sub-national) discourse, political structures and public policies’ (Radaelli 2004: 4).

Besides, this interplay between member states and the EU was reinforced, reshaped and reproduced by member states as well. Through carrying their specific concerns to the EU level, they managed to shape the EU agenda in line with their interests. Lastly, as noted above, certain ‘external’ events, such as economic crises as well as transnational developments, e.g. end of the Cold War, civil wars and refugee movements, are to induce common, securitarian approaches.

6.2. Differences in the Securitization of Migration

As detailed above, migration was securitized across all the cases and this process demonstrates certain similarities. However, especially concerning the impact of the September 11 and subsequent attacks, there are also crucial differences in the securitized migration. These can be listed as follows:

1) **In Germany, there is a clear and direct convergence between migration and counter-terrorism agendas in the post-September 11 period; whereas in Spain, this is not the case. The direct securitization of migration in relation to terrorism was incorporated into Spanish politics mainly, though not exclusively, under the EU harmonization process.**
In Germany, migration was explicitly and directly securitized in relation to ‘terrorist threat’. To put it differently, migration practices turned into counter-terrorism tools. To reiterate, as a direct response to the September 11 attacks, Germany introduced the so-called ‘security packages’, which were adopted in a very short time and designated as ‘emergency’ measures. These counter-terrorism legislative frameworks restructured immigration and asylum practices as well as other relevant practices governing the role and function of security and migration authorities. The subsequent Immigration Act internalized all these changes and fostered this process. All these are ‘indicative of a direct linkage between terrorism and migration in the German case’ (Diez and Squire 2008: 573).

On the other hand, as noted already, in case of Spain, there is not such a direct and explicit convergence between migration and counter-terrorism practices except the one induced by the transposition of the EU level practices. Indeed, contrary to Germany, Spain did not introduce fundamental changes to the existing framework covering migration and counter-terrorism issues even after the Madrid attacks. This is the major and most interesting outcome of the research. In Spain, where international terrorism was directly witnessed through Madrid attacks, one would expect a direct convergence and transversal between migration and counter-terrorism agendas in a more distinct and acute way. Especially, owing to the fact that the perpetrators of the Madrid attacks were Moroccan ‘migrants’, this could be the ‘logical’ outcome. However, contrary to these expectations, and despite some attempts by the PP and even by the Socialist Interior Minister, José Antonio Alonso, to trigger such a convergence, these voices were not explicitly and directly institutionalized at least with a direct reference to terrorism.99 Besides, for the justification of certain practices, such as those relating to border surveillance, criminality in

99 As detailed previously, for example, José Antonio Alonso, called for intensified surveillance over mosques and requirements for imams to be registered. The PP also constructed such a direct linkage by urging the fast-track deportation of those ‘suspected’ terrorists.
general and terrorism in particular were mentioned; but the ‘fight against irregular immigration’ remained as the dominant reference point. Hence, rather than a radical break with the past, the continuity characterized the Spanish case. Both Aznar and Zapatero continued to rely on the existing framework and securitized migration further in accordance with this pre-established context. Following from the comparative analysis of the securitization process in Germany and in the UK conducted by Diez and Squire (2008: 576), this picture suggests that: Spanish case is characterized by ‘the incorporation of established processes of securitization within an anti-terrorist agenda, rather than by the direct securitization of migration as a result of a wider anti-terrorist agenda.’ Accordingly, this does not mean that Spain has not restructured its migration practices in the post-September 11 period. Rather this implies that the securitization of migration in relation to terrorism is less distinct in Spain. Especially the alternative reading of securitization that has been developed by Huysmans (2006) and Bigo (2002) explain the Spanish case very well. More precisely, in case of Spain, the securitization has developed in a more indirect and diffuse way in which irregular migration is indirectly associated with a range of criminal and security ‘threats’ by technical practices of constituting unease. From the beginning of its transformation into a country of migration, Spain put enormous emphasis on technocratic-based securitization in order to deter and control irregular immigration. Even the asylum issue was disregarded and incorporated into this security architecture. At the EU level, it also advocated similar securitization process (e.g. its support for databases or border surveillance measures) in the post-September 11 period; but in the end, it utilized and justified the securitarian practices for the fight against irregular immigration. In this context, unlike Germany, whereby terrorism was used to justify draconian measures, in case of Spain, such an approach did not take a dominant position. Rather, migration issue, particularly irregular immigration, has been subordinated to a broader security framework.
with a reference to criminality. In brief, a more diffuse process of securitization associated to criminality and ‘fight against irregular immigration’ is the case in Spain. The following explanatory factors for this difference across the cases can be counted as the most significant ones. Before delving into the details of these factors, some points should be reiterated. As Ragin (2006: 640) puts it, these explanatory or so to say, ‘causal conditions’ should not be seen ‘as competitors in the struggle to explain variation in dependent variables; but as collaborators in the production of outcomes.’ In other words, there is not a hierarchical relationship among them. Through drawing on the interview data, securitization literature as well as the outcome of the empirical analysis, the key issue is, here, to identify possible conditions and specify the contexts for the individual cases.

a) History of and experience with terrorism

As discussed previously, the history of terrorism shows crucial differences in Germany and Spain. In Germany, the activities of the RAF occupied the political agenda for some time, and led to creation of counter-terrorism strategies; however, its effects cannot be regarded as long lasting since its activities were dismantled in 1998. Hence, after that time, terrorism was not represented as one of the major concerns in Germany. However, the September 11 together with the emergence of the so-called Hamburg cell and subsequent attacks in Europe placed terrorism at the top of the German political agenda once again. This importance given to international terrorism is well affirmed by the BMI by stating that: ‘International terrorism continues to be a major threat to the freedom and security of the Federal Republic of Germany’ (IBM 2012b). In such a context, as discussed already, as well as similar to the EU case, today’s terrorism was defined as ‘novel’, ‘omnipresent’ and de-individualized in Germany. It was framed as a threat to ‘West’. For instance, the IBM states that ‘Nor does the death of Osama bin Laden mean that Germany is no longer a target of Islamist terrorist organizations; instead, we can assume that Al
Qaeda will try to launch further attacks in the West to demonstrate that it is still a threat despite the death of its leader’ (ibid.). As evidenced by the discussions surrounding the legislative process of the Immigration Act and by interviewees, especially by those involving in this process (e.g. all politicians, AG₄; NSOG₁), this ‘threat’ perception fuelled an explicit linkage between migration and terrorism. On a closer scrutiny, the fear of becoming a target for future attacks was likely to invoke preventive measures and counter-terrorism strategies pertaining to migration-related practices. This perception was also explained with a reference to German political culture by an interviewee asserting that, this specific political and civil culture, which is focusing on control in general in order to avoid possible events that could disturb their order, prompted the direct convergence between migration and counter-terrorism agendas (AS₆). In short, what the interviews as well as scholarly written works suggest that these perceptions are fundamental in explaining why international terrorism came to be dealt with immigration and asylum law; but not with criminal law contrary to the RAF case (see Davy 2007: 176).

On the other hand, Spain has had a very long experience with terrorism. As explained before, despite the latest ceasefire, the ETA continued to remain as the major political concern and ‘threat’ to Spanish political identity. Different from the RAF, it was not fed by global movements. Rather, as a separatist movement, it has been seen as a menace to Spain’s ‘unified’ structure and has ignited comprehensive and structured counter-terrorism strategies. In such a context, neither the notion of terrorism nor the counter-terrorism strategies have witnessed radical shifts even after the Madrid bombings. Indeed, it did not need to introduce new counter-terrorism measures directly converging with that of migration (see Saux 2007; Jordan and Horsburg 2006; Bezunartea et al. 2009; Colas 2010). In accordance with this situation, both interviewees and various scholars argue that because of the legacy of the ETA, Spanish responses to the post-September 11
developments diverged from that of other states across the world. It was strongly underlined that even after the Madrid attacks, terrorism continued to refer to ETA; rather than the so-called international terrorism (all politicians and academics; BS$_1$; SES$_1$; NSOS$_3$). As detailed by the analysis on Spanish case, changes in the counter-terrorism practices in the post-September 11 period kept on targeting the ETA (ibid.). To make the issue more tangible, one of the interviewee stated that:

I was working for the DG Migrant and Integration when the Madrid attacks happened, and we were watching very closely what was going to happen with Islamphobia and racism. Nothing happened. Spanish society and most of politicians proved to be quite mature in that sense; they did not mix things. That may be because we have already here the experience of Bask terrorism and we have learned to distinguish not every Bask is terrorist; there is a Bask organization and you have the Bask society, which is something different. That is the only reason I can think why the reaction was so surprising, very calm and mature. There is a certain Islamphobia in this country but this is steady let’s say it has not raised because of this terrorist attack (BS$_1$).

To put it differently, Spanish long-lasting experience with terrorism has had important repercussions over its political cultural. Spain has become accustomed to ‘terrorism’ and the notion of terrorism, having continued to refer to the ETA, was not restructured and linked to migration issues in an explicit way even in the aftermath of the Madrid attacks (AS$_6$; AS$_7$; BS$_1$).

b) The political context at the time of the September 11 and the Madrid attacks happened

As detailed in the German case, the September 11 and the Madrid attacks happened at a critical time, namely when the negotiation process for the Immigration Act occupied the central position on the political agenda. The polarization between the SPD/Green coalition and the main opposition groups CDU/CSU on the content of the bill had already sparked
intense tensions. In fact, the relatively liberal approach of the Green Card Scheme and the new Citizenship Law introduced just prior to the September 11 attacks fuelled discomfort among Conservatives. The SPD/Green coalition’s bid for further liberalizing labour immigration and citizenship regulations as well as their focus on socio-economic integration of migrants ignited criticisms on the side of the CDU/CSU. In such a context, the September 11, having happened at the time of the legislative process, shifted the political agenda towards security concerns. In other words, as detailed by Diez’s empirical analysis,

The attacks of 11 September 2001 happened just weeks after the first internal draft of the immigration bill in August. This specific context meant that the question of immigration took a central place in the debates about 9/11, in particular after it emerged that the central figures among the hijackers had either lived in or had close connections to Germany. The public debate in Germany was dominated by reports about radical Islamists networks subverting the German state and society (Diez 2006: 12).

Similarly, the Madrid attacks also corresponded to the legislative process of the Immigration Act and heightened the security concerns in relation to terrorism in general and radicalization in particular. In the end, ‘with the war on terror, the impetus of the new [Act] found its counterpart in anti-terror legislation and a watering-down of the [Immigration Act] that set strict limits to the policy change originally envisaged. While the [Immigration Act] provided a moment of opening Germany’s borders, 9/11 and its aftermath led to a moment of closure’ (ibid. 2). Following Huysmans and other scholars (e.g. McDonald 2003/2008) highlightening the role/power of context on which securitizing moves are located, it can be asserted that the September 11 and subsequent attacks found a fertile ground to impact migration related practices. In other words, there emerged a ‘solid’ base for Conservatives to push for a direct securitization of migration in relation to terrorism (as also asserted by all interviewed politicians; BG₁; NSOG₁) in the German case.
This picture also confirms that the September 11 and subsequent attacks contributed to the already-established securitization process; rather than initiated it (see Huysmans 2006b; Bigo 2005).

Compare to the German case, Spanish political context at the time of the September 11 and the Madrid attacks happened signifies important differences. First, Spain had already replaced its relatively liberal migration law, i.e. Organic Law 4/2000 with a more restrictive and securitarian one, namely the Organic Law 8/2000 just prior to the September 11 attacks under the Aznar government. In such a context, it did not need to introduce fundamental changes in the light of the terrorist attacks (AS₂). As detailed already, following the September 11 attacks, Aznar government did not invoke radical changes; rather built upon the existing security structure. The already-established practices, e.g. exclusionary and restrictive immigration and asylum law, technologized and militarized border control practices, continued to mark the politics of migration, though in a more ‘enhanced’ manner. On the other hand, as commented by various scholars and interviewees, the Madrid attacks were to contribute to the defeat of the Aznar government. Aznar, who supported the U.S. war on terrorism in Iraq and blamed the Madrid attack on the ETA, became subject to intense public and political criticisms (AE₄; AS₆; NSOS₂). Following the election held just after the Madrid attacks, Zapatero’s government overruled Aznar. As confirmed by the interviewees, Zapatero’s government avoided constructing an explicit linkage between migration and terrorism and distanced itself from the US’s war on terrorism (AE₄; AS₆; NSOS₂). In this specific setting, despite the moves towards securitization of migration in relation to terrorism, e.g. those invoked by the PP, such discourses were not dominant contrary to the German case. They could not find a ‘solid’, ‘fertile’ ground to be institutionalized (AS₃; AS₈; NSOS₄; BS₁).
c) **History and characteristics of migration regime**

It was already stated that the major difference between Germany and Spain is related to the history and characteristics of their migration regimes. Germany as being one of the oldest migration country across Europe has had a more structured and comprehensive framework and practices relating to migration compare to Spain, which is labeled as a ‘recent’/’new’ migration country. In relation to this, as one of the interviewee underlined that migration debate is much more mature and consolidated in Germany than in Spain (AS₆). More precisely, following the end of the World War II, Germany started to witness increasing number of migration, including asylum seekers and ‘guest workers’. Despite the rhetoric of ‘migration would be a temporary phenomenon’ and ‘Germany would not be a country of migration’, these migrants settled down and gained a relatively secure judicial status in the country. In such a context, migrant communities with their children consolidated their place. Particularly, Turkish communities started to establish their own organizations, networks and become much visible in public space. Accordingly, tightening immigration and asylum channels, as well as integration issue with exclusionary and culturalist practices turned into major approaches surrounding the German politics of migration. For the admission practices, restrictive approaches reflected in ‘recruitment ban’ and ‘asylum compromise’ became the main strategy in the pre-September 11 period. Needless to say, sophisticated technocratic practices developed at the EU level supported this strategy. Regarding the practices administering the internal sphere, citizenship issue, which has been associated to cultural and even national security concerns by Conservatives, and alleged failed integration of certain group of migrants constituted Germany’s pre-September 11 context. In this setting, whereby the securitization of migration was ‘mature’ and more explicit, the post-September 11 securitizing moves in relation to terrorism could be institutionalized more easily (AG₇; AS₆). On the other hand,
in contrast to Germany, the presence of second or third generation migrants is limited and (securitarian) discourses and practices have not been fully consolidated in Spain, due to its late transformation into a country of migration (PS₁; AS₁). This situation can be considered as a factor that impeded the institutionalization of the securitarian discourses linking migration to terrorism in the post-September 11 period. In other words, in the Spanish case, the pre-September 11 context did not serve as a facilitator of the securitization in relation to terrorism in the post-September 11 attacks.

Another important issue revealed by the analysis is that the German migration regime has been characterized by asylum seekers, ‘guest workers’ and their families. Long before the September 11, all these groups have been already framed in security terms (PG₁; PG₃; SEG₁; AG₁; NSOE₂). Particularly, they have been transfigured as a menace to societal security (cultural identity and welfare state). In other words, as Diez (2006: 8-9) puts it eloquently,

The clear distinction between the foreigner as Gastarbeiter and Ausländer fit into and was underpinned by a larger institutional and legal context […] the foreigner, while potentially useful economically as a Gastarbeiter or computing specialist, was also often seen as a potential security threat […] And asylum seekers were seen as importing their conflicts into German society and, in contrast to the economic argument in favour of Gastarbeiter, pushing the welfare state beyond its welfare capabilities.

He furthered adds that, in such a context, ‘it is therefore easier to link migration with terrorism if the migrant as such for instance is already constructed as a threat to [societal security], and this is indeed one of the tropes of the German discourse’ (ibid. 6).

On the other hand, the Spanish migration regime has been structured mainly by labour immigration. Hence, as one of the interviewee stated that main security concerns relating to migration have focused on market and economic considerations in Spain (AS₃). He further stated that:
The link between immigration and market is definitely one of the main dimensions defining the focus of Spain. That means that politicians try to justify the policies with a reference to the management of flows in accordance with the situation of market. In this context, economic security prevails in the securitization of migration. On the other hand, security in relation to culture and/or religion, even in the aftermath of terrorist attacks in New York and Madrid, have not constituted the dominant political as well as institutional discourses in case of Spain.

In relation to this, it was further argued that following the recent economic crisis, financial problems and increasing unemployment have become the contentious issues structuring politics of migration in general and migration/security nexus in particular in the Spanish case. In this context, it can be also asserted that Spain, which has a labour-driven immigration system, has been much concerned with the economic repercussions than national security issues in relation to the movement of people. Whereas, Germany, which is the country with a relatively stable economic well-being and one of the lowest unemployment rate across the EU even after the economic crisis, remained wedded to national security considerations in relation to terrorism.

2) In Germany, the internal securitization is much more decisive than the external securitization. Whereas, the external securitization is more explicit than the internal one in case of Spain.

As the Table 6.1 illuminates that the external securitization at the EU level is much more decisive than the internal securitization. This is closely related to the enduring power of member states over the practices administering the internal sphere. More precisely, the Europeanization and harmonization processes have been structuring the practices of external sphere for a long time; but they have had limited influence in the field of internal securitization. As stated before, this situation led to the convergence of the securitization process in the external sphere among the national cases. Related to this, it is a logical
outcome that internal securitization shows differences across member states because of the ongoing importance of member states’ unique political and socio-economic characteristics shaping their migration politics (Indeed, this situation is also to constrain the convergence in the internal sphere). In such a context, as the Table 6.2. demonstrates that in case of Germany, internal securitization is much more decisive than the external one in the post-September 11 period. In the Spanish case, the situation is just the opposite (see Table 6.3.).

More precisely, the analysis of German case demonstrates that there is a clear and direct securitization in the internal sphere particularly in the post-September 11 period. Intensified internal surveillance over Muslim organizations and communities, securitized integration approaches as well as harsh removal practices are the indicator of this emphasis. However, this does not mean that Germany has not shaped the practices of external sphere in relation to terrorism. Rather, the analysis suggests that the external securitization was less decisive compare to the internal one and it was mostly driven by the EU level harmonization process. Particularly, the visa and technological practices became subject to the intensified and direct securitization in relation to terrorism in the field of external securitization. Yet, there is not a radical break with the past practices. Contrary to this, the emphasis has been put on the external securitization in case of Spain. Spain has continuously technologized and militarized border control practices, though not exclusively with a reference to terrorism. On the other hand, the internal securitization seems to be less explicit. This difference can be explained along two lines. The first one is again related to the history of and experiences with migration and the second one is concerned with the differences in the geographical position of the respective countries.

First, as detailed above, owing to its long migration history, the securitization of migration in Germany is much more ‘mature’ and consolidated than in case of Spain.
Related to this, the number of migrants, especially Muslim ones, is higher in Germany compare to Spain\(^{100}\). In such a context, Germany’s settled migrants and practices directed against them occupy a more significant place at the political agenda. As stated by one of the interviewee:

Because of its long history of and experiences with migration, not only the debate on migration is deep rooted, but also the securitization process as well. In other words, Germany have had experienced problems that are not present in Spain. The number of Muslim migrants (Turks) is also much higher than in Spain. If you have three million Muslims, it might create certain concerns. The idea might be we have also 3 million Muslims, and something could also happen to us. So we have to avoid it (AS\(_6\)).

On the other hand, Spain as being a relatively ‘new’/‘recent’ migration country has put the focus on the external securitization. Policing and control of would-be migrants constituted the major concern triggering political debates and practices. One interviewee verified well how the status of Spain (being a new/recent migration country) has affected the Spanish approach regarding the division between internal and external securitization by stating that:

We have not so many second-generation migrants. Many are still first generation, because of its late transformation into an immigration country. They are still striving for securing their basic rights. At the same time, we have irregular migrants more than any other EU country. Indeed, public attitude against migrants in the country is not as hostile as in other European countries. Under these circumstances, Spain has been still more concerned with protecting borders against irregular immigration rather than with those already inside the country (AG\(_3\)).

\(^{100}\) In the literature, it is further argued that ‘immigrants from Muslim countries are fewer in number than immigrants from Latin American countries’ in Spain compare to other traditional migration countries, e.g. Germany (Bezunartea et al. 2009: 3). Indeed, in Spain, Latin Americans have constituted the largest group of migrant community and linked to various societal security concern relating to welfare state or criminality (ibid. 7). This would also constitute an explanation for the differences in Spanish response in the post-September 11 period (ibid.).
All these points become clear and tangible when one looks at the integration practices. As detailed, in Spain, integration issue entered the political agenda only during the early years of 2000s and the nation-wide, comprehensive integration practices came to be implemented from the 2007 with the Strategic Plan for Integration and Citizenship. Despite this move as well as the increasing conservative voices in the post-September 11 period, Spain has not introduced exclusionary and securitizing integration practices contrary to Germany. For example, it has not implemented mandatory integration programmes and citizenship tests. It should be also noted that even though Spain has also privileged *ius sanguis* principle in its naturalization procedure, citizenship issue has not become the focus of public debate contrary to the German case. It can be also argued that Spanish political cultural with respect to national identity and construction of ‘self’ and ‘other’ is much more inclusionary than that of Germany\(^\text{101}\) (*AS\(_6\); *AS\(_7\)*). More precisely, as put forward by interviewees, the quasi ‘multi-national’ character of Spain hindered the formation of rigid differentials between ‘Spaniards’ and ‘migrants’ (*AS\(_1\); *AS\(_2\)*). Indeed, this is well evidenced by the fact that even after the Madrid attacks, integration (e.g. citizenship practices) and by extension ‘radicalization’ did not take a major place on political agenda.

Secondly, the differences in the geographical positions of Germany and Spain can be counted as another factor leading to differential focus on the external and external securitization. For example, in the pre-September 11 period, Germany also invested substantial amount of resources in fortifying its borders. Its efforts in building intense bilateral cooperation with Poland and Czech Republic, for instance, evidence this very well. However, ‘following the 2004 enlargement process resulted in the membership of Czech Republic and Poland, Germany has not been the external border of the EU anymore.’

\(^{101}\) For example, Diez (2006: 8-9) exemplifies this with the following words: ‘The citizenship law in particular, with its focus on *ius sanguinis* instead of the determination of nationality by place of birth (*ius soli*) and its rejection of double citizenship, systematically excluded immigrants from political participation and broader societal integration’.
This made Germany surrounded by member states required to deploy similar border control practices. In such a context, Germany considered that especially its physical borders could be more easily protected than before’ (NSOE₂). This is complemented by the EU level securitization. Namely, as the EU level developments have substantially contributed to the securitization of practices performing the role of ‘policing at a distance’ (through strict visa schemes and technologized border control practices (databases’), Germany was not inclined to direct huge attention to the external sphere (ibid.). In other words, all means to secure the external borders have been very well consolidated. Hence, the emphasis could be placed on already-entered and settled migrants, whose numbers has been on the rise parallel to its long-migration history.

On the other hand, Spanish closeness to Africa and its long coastal borders have made the country much more exposed to irregular entries (as stated by all interviewees). Together with the EU’s pressure, Spain has continuously fortified its coastal borders, though, not exclusively and directly as a response to terrorism; but more to irregular entries. On account of this, external securitization became much more decisive in the Spanish case.

Taken together, these differences in the securitization of migration revealed that even though migration has been securitized both in the pre – and post – September 11 periods in all three cases, these processes have taken different forms with diverging emphases. In the explanations of these variations, the analysis proved that the specific context on which securitizing moves are located is of utmost importance. More precisely, the individual discourses or practices per se do not ‘constitute securitization as such meaningful practice’; only the wider context on which these discourses and practices are located does (see Diez and Huysmans 2007: 6). In other words, this context has the power to ‘precede and pre-structure political framings in significant ways’ (Huysmans 2006b: 8). Related to this,
another important outcome of the comparative research is that contrary to the studies which take and analyze the securitization as a straightforward and homogenous process that could happen in a similar way in all contexts; the research demonstrated that it is highly context-dependent. This is particularly evident in the impact of the September 11 and its aftermath on migration practices, because even the direct experience with the international terrorism could not envisage a direct and explicit securitization of migration in relation to terrorism.
7. Conclusion

This research addressed the securitization of migration through undertaking a comparative analysis of Spain and Germany alongside the exploration of the EU level developments. More precisely, it aimed to shed light on how migration has been integrated into a security framework emphasizing policing and defence; how practices that were previously used for dealing with traditional security concerns, started to administer the issue of migration; how a security continuum between migration and security concerns, including societal and traditional security issues, has been established; and most importantly, how migration and counter-terrorism agendas have been converged in a way to transform migration practices into tools for the fight against terrorism. In conjunction with these concerns, the research in general and the comparative analysis in particular sought to accomplish five goals that are identified by Ragin (1994) as the major objectives of the social research. To reiterate, these are: 1) refine existing theories 2) Identify general patterns and relationships; 3) interpreting historically significant phenomenon; 4) explore the diversity; and 5) giving voice. The research achieved all these goals as follows.

Regarding the first goal, this research complemented the existing theoretical insights on the securitization of migration and provided a methodology, a systemic way of approaching how migration is to be securitized through looking into practices. As discussed in detail, there have been significant and wide-ranging works regarding the securitization of migration over recent years. However, these works suffer from a lack of clear-cut methodological framework, and this drawback hinders the ‘empirical’ applicability of the securitization theory. In order to fill this gap in the literature, first, the theoretical concept of the securitization, which was originally introduced by the Copenhagen School, was taken as an analytical and conceptual tool. However, it was revised and complemented through following a sociological understanding in a historized
and contextualized manner. More precisely, by privileging practices over the so-called ‘speech acts’, the research built upon the structuring power of practices in framing certain issues (migration) as a security threat. This stance did not disregard the role of ‘speech acts’ invoked to justify certain practices; rather, it was based on the idea that migration (or any other issue) could be securitized without being asserted as such. In this setting, by shifting analysis from discourses to practices, it became possible to delineate ‘empirical referents of policy’ – policies, policy tool, instruments, operational and institutional set-ups – which are utilized by the EU and member states to alleviate public problems defined as threats’ (Balzacq 2008: 76). In line with this logic, specific practices were chosen in accordance with the Brochmann’s categorizations of the mechanisms of migration control (see Brochmann 1999). In particular, having focused on the post-September 11 developments, the detailed analysis of these practices was done along two lines; external and internal. The external sphere referred to practices directed towards would-be migrants wishing to enter the EU. The latter covered the practices addressing already-entered and settled migrants as well as those, who were redefined as migrants, such as descendants of migrants. This division provided a clear, but at the same time, a comprehensive analytical framework in order to explore the characteristics and dynamics of the processes of securitization across the cases. Followingly, securitarian character of these practices were assessed through building upon certain indicators. To reiterate briefly, in accordance with the works of scholars offering a sociological insight into the study of securitization, practices of the securitization were identified as those 1) emphasizing ‘policing’ and ‘defence’ both in relation to traditional security concerns, i.e. terrorism and societal security issues; 2) ‘have traditionally been implemented to tackle issues that are largely perceived to be security issues (such as drug-trafficking, terrorism, a foreign invasion, etc.)’ (Leonard 2010b: 238); 3) intertwining with counter-terrorism purposes and strategies
following the establishment of continuum between migration and wide range of security issues. In addition to this analytical framework, contrary to the Copenhagen School, which disregard the power of the context and overemphasize the individual ‘speech acts’ in the process of the securitization, this research revealed the fundamental role of the context on which ‘new’ securitizing moves were located and looked into the pre-September 11 period as well. Following from the works of Huysmans (2006b: 8), the analysis demonstrated that the securitization of migration is highly dependent on the context, in which practices ‘precede and pre-structure political framing in significant ways’. More precisely, the comparative analysis of the case studies showed that the pre-September constellations have affected the post-September 11 securitization framework in a significant way. In other words, the research found out that the differences in the pre-established securitization of migration before the attacks led to also differences in the responses of Germany and Spain in the post-September 11 period. In brief, in order to stand against straightforward and simplistic explanations on the securitization of migration, this research drew the attention not only to the structuring effects of practices but also to the importance of a contextualized and historicized analysis.

Second, the research in general and comparative analysis in particular unpacked the general patterns and relationships. Closely related to the above-mentioned theoretical and analytical framework, the analysis explored and explained the commonalities in the securitization process across the cases. In particular, the findings of the research demonstrated that migration was securitized in all three cases long before the September 11 period. This proves the arguments stating that the attacks of September 11 and along with those that followed are not the initiators of the securitization process; rather they facilitated and contributed to the ongoing securitization. To be more tangible, in case of the EU, starting from the establishment of the Single Market and abolition of internal border
controls, the emphasis was put on external border controls in order to protect internal security. In this context, irregular immigrants and ‘bogus asylum seekers’ were integrated into a security framework emphasizing policing and defence. More precisely, migration came to be dealt with securitarian practices, some of which were traditionally used against traditional security ‘threats’, such as foreign military invasions. Most prominently, a continuum between migration and wide range of security concerns, including organized crime, and drug trafficking, was established. In the post-September 11 period, various practices, (including visa, technologized and militarized border control practices) were directly affected by the attacks and migration/security/terrorism nexus was integrated into the European security architecture. In case of Germany, following the oil crisis of 1970s, and the end of the Cold War, a clear shift from liberal and open labour immigration and asylum policies became apparent. ‘Sophisticated’ entry barriers for asylum seekers, and migrant workers, and technologized/militarized border control practices as well as the culturalist and exclusionary integration measures are few among those practices of the securitization. Following the September 11 attacks, this securitization process became much more decisive, as immigration and asylum practices were restructured by the ‘security packages’ and turned into tool for the fights against terrorism. Likewise, after its accession to the EU, Spain also started to follow this securitization trend in its domestic politics of migration. There emerged a clear shift from a liberal to restrictive and security oriented politics of migration. This process, though with divergent paths and emphases, continued and intensified in the post-September 11 period in Spain. In addition to this, another commonality is that migration as a whole has not been securitized. Certain groups, such as irregular immigrants, asylum seekers, refugees, migrants coming from poor and ‘culturally dissimilar’ parts of the world and following the September 11 attacks, Muslim migrants formed the subjects of this securitization process. On the other hand, those
defined as ‘culturally’ and/or ‘ethnically’ similar, coming from ‘Western’ and ‘rich’ countries as well as highly-qualified persons, including businessmen/women, specialists, researchers, came to be dealt with a relatively liberal approach and practices across the cases. However, even this very ‘liberal’ approach should be assessed carefully. As explained aptly by Huysmans (2006b: 48-9):

One of the striking characteristics of the contemporary discourse on migration in the European Union is the contrast between a negative portrayal of asylum seekers and illegal immigrants and talk about the necessity of increased economic migration to support growth and welfare provisions. Despite the obvious difference between repressive and permissive migration policy that plays out in this contrast both policy positions share a desire to control population dynamics for the purpose of optimizing a society’s well-being by keeping the unwanted out and integrate the needed into the labour market.

Another general pattern is that, both Spain and Germany supported the Europeanization process and integrated the securitizing practices of the EU into their domestic politics. In other words, the Europeanization process contributed to the securitization of migration in national cases. Yet, they also carried their own security concerns to the EU level and pushed forward the securitization of certain practices in line with their own interests. Lastly, another commonality is that even though right and left wing parties diverged in their discourses, when it comes to the securitization of the issue, they were likely to support or implement similar practices. Specifically, both in the course of interviews and in their official statements, left wing parties, (e.g. Social Democrats and Greens) in Germany displayed a more pro-migrants stance and criticized the on-going securitization process; nevertheless their practices converge with that of right wing parties in certain cases (i.e. ‘asylum compromise’, ‘security packages’, certain provisions of the new Immigration Act). In a similar vein, Zapatero’s government continued to implement the practices, which his party previously criticized. For instance, extension of
technologized and militarized border control practices or the (failed) proposals for the intensification of surveillance over mosques signify this convergence between right and left wing stances. Against this, though accepting the different ideological background informing right and left-wing stances vis-à-vis migration, this research alerted to the fact that such a division is not so ‘rigid’ or cannot be always sustained when it comes to the ‘practices’.

Concerning the third and fourth goals, the evidence in this research clearly suggested that the September 11 and the subsequent attacks sparked intense debate about free movement of people in general and migration in particular. However, whereas, the September 11 drew the attention to the possible abuse of regular and irregular channels by terrorist to leak into ‘European societies; the Madrid as well as the London attacks shifted this focus to those ‘radicalized’ migrants/Muslims inside the EU. Even though these historical events have induced important changes on the way we understand migration, their impact on relevant practices show significant differences across the cases. In Germany, migration practices were directly and explicitly restructured and reframed as counter-terrorism tools. To be more tangible, the two ‘security packages’ introduced just after the September 11 attacks came into stage in a very short time and amended various legal texts, including those relating to immigration and asylum. This picture is more or less similar to the EU level developments, which restructured the existing practices and introduced new ones in the light of terrorism. On the other hand, even after the Madrid attacks, this kind of securitization of migration in relation to terrorism is less evident in the Spanish case. Examined broadly, the practices introduced in the post-September 11 period have been largely marked by the indirect association of migration with a range of threats. In other words, there is not a direct convergence between counter-terrorism and migration practices. Indeed, contrary to Germany, Spain did not introduce radical changes to its
counter terrorism and migration practices. Rather, it continued to rely on the existing framework; but it also readapted this framework in a more securitarian way. Specifically, in such a context, the securitization of migration seems to be more diffuse. Migration, particularly, irregular immigration, was integrated into a broader security framework and linked to criminality. Terrorism was also used to indirectly legitimize certain responses, especially those relating to border control practices; yet, this was not a dominant reasoning. In other words, there emerged not a direct, causal relation between terrorism and migration. Entry regulations, technologized and militarized border control practices were tightened principally for the fight against irregular immigration. In a similar vein, except the removal practices, which were restructured with a reference to terrorism under the auspices of European integration process, the pre-established context was preserved in the internal sphere as well. The securitization of migration prevalent in the Spanish case in this respect is more akin to the processes of securitization described by Bigo (2002), ‘who conceptualize securitization in terms of diffuse, technical practices of constituting unease rather than’ constructing and institutionalizing a direct and explicit linkage between migration and terrorism’ (see Diez and Squire 2008: 576).

This is the most interesting and important finding of the research on two grounds. First, it questioned the arguments taking for granted that the September and subsequent attacks securitized migration directly in relation to terrorism. However, the Spanish case demonstrated that the securitization of migration is not a straightforward process that takes the same forms and follows the same patterns in all contexts. Even the direct experience with international terrorism shall not necessarily feed into the construction and institutionalization of migration/terrorism linkage. Second, the research drew the attention to the fact that differences in the securitized migration across the cases were closely linked to the variances in the pre-September constellations that served as a broader frame for
practices and debates surrounding migration in the post-September 11 period. In other words, on the basis of the interview data, relevant theoretical and empirical studies, the analysis suggested that both the pre-September 11 constellations relating to the history of terrorism and (securitization of) migration and the political context corresponding to the September and Madrid attacks were the decisive factors informing the post-September 11 securitization process.

Related to these pre-established contextual factors, another major difference in the external and internal securitization division. At the EU level, due to the enduring power of member states, which has impeded the Europeanization process in the internal sphere, the securitization of migration has become more visible and decisive in the external sphere. For example, visa policies, and border control mechanisms were directly restructured in the light of terrorism. On the other hand, while Germany put much emphasis on practices addressing ‘migrants’ inside the country, Spain continued to focus on the external sphere in order to control and contain irregular migrants. This difference between Germany and Spain was, again, explained with a reference to historical and contextual factors. More precisely, history of migration, which resulted in the differences in the characteristic of migrants and related concerns, and the geographical situation of the respective countries were counted as the most significant reasons explaining this differential focus between the two cases. Shortly, it was revealed that securitization of migration is not a linear, straightforward, and/or homogenous process that follows similar paths in every context. Rather, the analysis demonstrates that it depends highly on the context on which the securitizing practices are located.

To achieve the last goal, the research promoted a critical engagement with the securitization process and the relevant practices. In particular, it drew the attention to the discriminatory character of those practices and their impact on the rights of asylum seekers
and immigrants. Regardless of the terrorist threat, the EU and member states have continuously tightened entry procedures, technologized and militarized border control practices. This has grave consequences if one looks at the situation of would-be migrants risking their lives en route to Europe. Especially, those in need of international protection cannot easily lodge their claims and gain access to the refugee protection regime across the EU. On the other hand, discriminatory and culturalist internal surveillance, integration and removal practices are likely to put (certain groups of) migrants under suspicion. As mentioned by various interviewees, the securitization process and problematization of the presence of migrants are to hamper their very ‘integration’ into European societies and feed into anti-immigrants discourses. On the other hand, regarding the post-September 11 developments, the research raised fundamental concerns over how the changing perceptions regarding ‘threat’ and terrorism and the resultant counter-terrorism approaches have transformed migration practices into a weapon for the fights against terrorism. Particularly, the definition of terrorism is so imprecise and broad as to apply wide range of migration-related practices. For example, denial of entry to immigrants and asylum seekers, justification of internal surveillance practices, culturalist and securitarian integration practices all have been mobilized with this vague and wide definition of terrorism. Most decisively, for preventive purposes, ‘terrorist’ or suspected’ persons came to be dealt with migration law rather than criminal law. By this way, it became easier for states to contain, control and exclude these ‘threats’ at the possible earliest stage, as recourse to migration law for security purposes serves to circumvent the safeguards built into criminal law (see Eckert 2005; Cole 2003; Moeckli 2010). This is particularly evident in cases of removal of suspected terrorist and the so-called ‘hate preachers’.

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102 This view was asserted by almost all interviewees, including mainly by PE₂, PE₃, PE₄, AE₁; all academics and representatives of the NSOs interviewed for the EU case; by all politicians, academics and representatives of the NSO in the German case; and by PS₁, PS₂, PS₄ as well as by all most of the academics and representatives of the NSO in the Spanish case.
Taken together, all these theoretical, empirical, and normative engagements with the securitization processes across the EU prompt significant questions as regards to the European integration process and definition of political identities of the EU as well as of member states. This is mainly related to the fact that, as stated eloquently by Legomsky (1993: 335) practices administering the issue of migration are about as central to a nation’s mission as anything can be. They are central because they literally shape who we are as people. They are central also because they function as a mirror, reflecting and displaying the qualities of we value in others. For both reasons, decision on immigration policy put us to the test as no other decisions do. They reveal, for ourselves and for the world, what we really believe in and whether we are prepared to act on those beliefs.

At present, current practices of the EU and member states put them to the test especially in relation to the goal of improving democracy and human rights standards across the EU and in its neighborhood. That is the most prominent and advocated official discourse by the EU. However, current migration practices cemented by the securitarian rationale tell another story. Regardless of the impact of the September 11 and the subsequent attacks, all dealings with immigration and asylum issues tend to exclude (certain group of) migrants from the scope of this democracy and human rights oriented agenda. Against this backdrop, it is fundamental to ask what kind of democracy and human rights agenda the EU and member states are promoting. Is this agenda just favouring the dominant class and ‘securitizing’ as well as ‘externalizing’ the ‘others’ on the basis of nationality or legal status? Is it a neo-liberal agenda sustaining and enhancing the free movement of capital, rich people as well as ‘qualified’ labour force and disregarding the rights of migrants forced to immigrate to the West in quest for a better life? There is a need for critical reflection on these questions in order to challenge, deconstruct, and problematize the ‘legitimacy’ of borders and securitarian practices capturing our political thinking and implicating in the way we construct our political identities.
To conclude, apart from the above-detailed achievements, this thesis has also provided several avenues and a basis for future research to explore the securitization of migration in different contexts and from different points of view. Especially, the interlinkage between security, democratic politics, and migration as a core challenging issue needs to be further investigated. Different case studies could be chosen for the analysis of this process especially with respect to the September 11 and its aftermath, and new ‘causal’ conditions could be detected in order to explain the differences and similarities across the cases under investigation. Besides, different methodologies could be employed to look at the issue from multiple angles. For example, it is also worth analyzing the impact of the securitization process on the ‘real’ lives of migrants. In order words, by undertaking a field work with migrants rather than ‘experts’, it could be possible to scrutinize how the practices of securitization take effect in daily life. These analyses would not only contribute to the very ‘scientific’ field on the issue; but also raise critical and normative concerns regarding the ‘illiberal’ practices of ‘liberal’ states.
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<th>Degree</th>
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PUBLICATIONS

