

# 1 Introduction

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## 1.1 YOUR HUNTER AND HELPER: SURVEIL AND ASSIST

In the early hours of October 3, 2013, one week before the European Parliament was to vote on the operating rules of the European Border Surveillance System (EUROSUR), a 20-meter trawler capsized off the Italian island of Lampedusa. On board the vessel were over 500 migrants, reportedly from Ghana, Somalia and primarily from Eritrea. The vessel had sailed from Misrata, Libya, for almost 48 hours and was about 600 meters off the coast of Lampedusa when it faced a distressing situation: the vessel had begun to take on water, and, in order to attract attention, a passenger set fire to a blanket. Unfortunately, petrol that had spilled on the deck ignited and the vessel caught fire. Some passengers jumped in the water to avoid the flames and others moved to one side, causing the boat to capsize. The vessel started sinking with the majority of passengers in its hull; those passengers who managed to escape the trawler fought to stay afloat, some for more than three hours, clinging onto empty water bottles or the corpses of fellow passengers.

Fishermen were the first to reach the scene. They managed to take 47 migrants on board and alerted the Italian Coast Guard, who set out for the emergency response. In total, 155 persons were rescued from the scene. The salvage work went on for ten days. By October 12, divers had retrieved a total of 359 dead bodies from the vessel, which had sunk 47 meters below the water's surface. Pictures of body bags lined up in the port of Lampedusa and of numbered coffins in the island's hangar replaced the usual images of an overcrowded boat, stuffed with African migrants, which commonly accompanies Western news on maritime migration to Europe.

The Lampedusa shipwreck of October 2013 marks a caesura: firstly, it had been the accident with the highest death toll involving Europe-bound migrants aboard a boat until that date; secondly, it changed the public debate on European Union border policies as it directed the claim for European search and rescue operations toward border enforcement agencies. However, can your hunter be your

helper? And where is the border at which the distinguishing decision is taken, where is it decided whether you are being hunted or assisted?

During that night of October 3, 2013, the hunter had not surveilled well enough. A vessel jam-packed with more than 500 migrants had almost reached Lampedusa without being detected. Thus, the friend was sent out for rescue and condolences. Italian Prime Minister Enrico Letta declared the victims Italian citizens post-mortem and announced a state funeral. Meanwhile the hunter did what he had to do: the public prosecutors in Agrigento launched investigations into the infringement of the applicable migration law against each of the 155 survivors.<sup>1</sup>

In parallel, the European Parliament (EP) held plenary sessions in Strasbourg (from October 7 to 10, 2013) and voted on the regulation establishing the European Border Surveillance System (EUROSUR). EUROSUR stood both for intensified surveillance practices and an increased surveillance apparatus, along with the (visual) integration of national surveillance information into a common situational picture. Both the EUROSUR network, which facilitates the exchange of information and is used to generate situational pictures, and the legislation concerning its operating rules have been gradually developed between 2008 and 2013. Both network and regulation put forward the rules for the exchange of border-related information. They establish the “communication formats” (Ericson/Haggerty 1997: 33) of border surveillance and control and thus “provide the means through which the police think, act, and justify their actions” (*ibid*). They program EU border policing.

The Lampedusa tragedy directed unexpected attention to the EUROSUR Regulation. The question of whether surveillance served the hunter or the helper

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1 The details of the event as summarized and described here are based on a selection of various accounts in the press (Yardly/Povoledo 2013; Braun 2013; Davies 2013; Messia/Wedeman/Schmith-Spark 2013; Rühle 2013; ANSAmed (N.N.) 2013; Associated Press (N.N.) 2013). Details concerning the number of people, their nationality, the point of departure, the duration of the journey as well as details on the distress situation and the emergency response are not always consistently reported. Accounts of survivors which have been in the news one year after the tragedy (Nelson 2014; Mittelstaedt/Popp 2014) shed light on the actual distress situation and the struggle to stay afloat; they particularly render the situational assessment by Deputy Prime Minister Angelino Alfano somewhat irritating in which he claimed that “it happened close to shore [...]. Had they been able to swim, they would have been safe” (quoted in Yardly/Povoledo 2013).

occupied public attention.<sup>2</sup> The EP Greens, who had attempted in vain to integrate a rescue obligation into the EUROSUR Regulation, strove for its renegotiation. It was hoped that the high number of fatalities would pressure legislators toward not passing a regulation for more surveillance without an explicit obligation of rescue. Yet, on October 9, 2013, the European Parliament passed the operating rules of EUROSUR without an explicit obligation of rescue. The Council of the European Union (EU) adopted the regulation on October 22, 2013, and since December 1, 2013, EUROSUR is operational. Surveil and – if necessary – rescue remained the lowest common denominator.

It was a coincidence that the disaster of Lampedusa preceded the parliamentary vote. For EUROSUR, however, this resulted in a spin of its legitimizing narrative. Thus far, EUROSUR was framed as merely a “technical framework” or “tool.” In fact, it had been difficult for its critics to attract public attention to its political ingredients and repercussions. Moreover, during negotiations between the European Council, the EP and the European Commission (EC), member states had been reluctant to accept any mention of “saving lives at sea” as part of new provisions.

Now, under the impression of the 365 migrant fatalities, EUROSUR emphasized the prospect of contributing to saving migrants’ lives at sea. EUROSUR “will make an important contribution in protecting our external borders and help in saving lives of those who put themselves in danger to reach Europe’s shores” declares Cecilia Malmström, then Commissioner for Justice and Home Affairs, on the occasion of the EP’s vote.<sup>3</sup> Better surveillance paired with interagency cooperation was framed as the all-in-one solution: By detecting migrant vessels, both illegal immigration and migrant fatalities were to be prevented. Thereby, the potential amicable gesture of the hunter’s tool supports its necessity.

However, distinguishing between illegal immigrants and shipwrecked persons, and thus the decision to be a hunter or helper, occurs situationally. Yet,

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- 2 A commentary which strongly pointed out this ambivalence has been published by Deutsche Welle (Berger 2013). Its German heading “Eurosur – Dein Feind und Helfer” (Engl.: *Eurosur – your friend and assistant*) inspired the title of this section.
- 3 At the occasion of the EP’s vote, Malmström explicitly established a link between the tragedy of Lampedusa and the objectives and potentials of EUROSUR. The commissioner advances a formulation that hints at the controversies between member states concerning immigration policies: “The EU and its Member States need to work hard to take decisive measures and show solidarity both with migrants and with countries that are experiencing increasing migratory flows” (Malmström 2013).

surveillance as an allegedly non-invasive measure as well as the multi-purpose aim of detecting small boats are framed as being detached from the political process of sorting vessels' passengers. Situational awareness provides an overview. Surveillance is, in fact, thought of as a way to direct operations and resources. Effectively, "you are not going to collect information, if you are not going to act."<sup>4</sup> Hence the question whether surveillance mechanisms are programmed toward preventing illegal immigration or toward saving lives at sea surfaces once again. What do law enforcement officers want to do once they spot the boats? One means, conflicting ends, and the vessel as a mobile target.

The migrant vessel and the European Border Surveillance System, the small boat and the big system of systems: these two sites are not only opponents in the cat and mouse of border surveillance and control. The boat can also be interpreted as the 'humanitarian subtext' and proof of EUROSUR's necessity. The two empirical chapters of this study examine the EUROSUR and the migrant vessel as sites of EU bordering. Both sites are constitutive for the emergence of an external border to the EU. They are mediators to the emergence of a supranational EU border, in the sense that they catalyze and craft a level of Europeanization which hitherto and otherwise had been impossible. Examining this level of supranationality through two of its mediators, this study is about the emergence of an external border to the EU.

## **1.2 MEDIATED BORDERING: THE OBJECTIVES, PREMISES AND STRUCTURE OF THE STUDY**

Tackling an object of inquiry which itself is under construction challenges the methodology of a study. How to approach an object of inquiry which itself does not exist? ... But wait a minute: doesn't it seem as if there *is* an external EU border?

Referring to the notion of a territorial state border, an EU border does not exist. The EU neither has a territory, nor is it clearly delineated where Europe ends geographically. However, the absence of a geopolitical border cannot only be attributed to potential difficulties in routing it. The notion of the territorial border has not only been challenged at the empirical level; it has been deessentialized in

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4 EUROSUR Project Manager at Frontex, personal interview (May 15, 2012).

(political) geography (van Houtum 2005; Elden 2010a, 2010b, 2011), international relations (Agnew 1994, 2008; Scott/van Houtum 2009), sociology (Walters 2002, 2006; Wimmer/Glick Schiller 2002) and by studies from cultural anthropology (Anzaldúa 1987; Sahlins 1989; Paasi 1996; Pries 2008).<sup>5</sup> Political borders cease to be conceptualized as lines, as the “natural” confinement of nation-states. Subsequently, a study which examined the EU border by comparing it to the territorial state border and which was in search of the edges of EU territory, of lines, maps and their defining peace treaties, could no longer be carried out empirically (Walters 2002: 563–565). Theoretically and methodologically, such a border would appear obsolete. And still, even without a delineated EU territory, the operative effect of an EU border seems to be existent. How can this kind of political border be characterized and investigated?

The possibility of conceiving of political borders in terms of a post-territorial, post-modern, post-national or post-Westphalian constellation presupposes that political borders exist beyond the modern understanding of political control, and of authority as territorial sovereignty. “This is not self-evident,” argues Georg Vobruba (2010: 434), pointing to an understanding of borders and territory that sees them as mutually constitutive. In fact, the figure of the territorial border has condensed the modern principles to an extent that hinders concepts of territory and border which are *not* mutually constitutive (Elden 2011; Allies 1980: 9). The attribute territorial is taken to qualify as political.

This epistemological challenge finds inspiration in the empirical example of the external border(s) of the EU. Moreover, one can observe how the empirical example of the external borders of the EU has altered the epistemological and methodological premises of border studies (Scott 2011). Just as the EU has been thought of as “nothing less than the emergence of the first truly postmodern international political form” (Ruggie 1993: 140), its border constellation provides an empirical example of how political borders can be thought beyond the territorial state.

Correspondingly, the search for an adequate methodology goes on: How do you study a border without knowing *where* to go for research and *what* to study? Do I have to travel to Gibraltar or Lampedusa to research the emergence of an EU border? Or rather to the Evros, the Greek-Turkish border crossing and contact zone? Or rather should I travel to Brussels, or visit the Frontex Headquarters

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5 The disciplinary assignment should not be read too rigidly, as contemporary border studies understand themselves as interdisciplinary (cf. Newman 2006a).

in Warsaw. Who should be my interview partner, i.e. who do I consider most relevant as an actor of bordering? Who is bordering? Apparently: there is no geographical answer to the question of the strategic research object in border studies and the corresponding field of research.

The methodological uncertainty is further complicated by the spectral character of any border. Not only does the EU have no clear territorial border, borders are generally characterized by their phenomenal indeterminacy and fuzziness, which is to say that there is no phenomenon of a border as such (Cremers 1989: 38; Vasilache 2007: 38-47). Andreas Vasilache notes that the odd and at the same time particular character of any border is “that it unfolds its effects through its presence and materiality, but consistently loses this presence whenever it becomes the subject of contemplation itself” (Vasilache 2007: 40). Accordingly, a border only “becomes always tangible only as a proxy” (*ibid*) or through representations. The border appears *as* something (Cremers 1989: 38). Yet, which things maintain an indexical relationship to a given political border? As *what* does the respective border appear, and *as what* should it thus be researched? Are there strategic, that is, preferable objects of inquiry when analyzing a political border?

During the last three decades, the emergence and effectiveness of an EU border has predominantly been studied either *as* institutional integration or *as* practices of exclusion and subversion.

Conceptualizing a political border as a contract and methodologically taking it for its *institutional integration* entails analyzing a contract and investigating its level of integration and institutionalization. Consequently, one has to examine further agreements and amendments, and consider to what degree EU regulations and directives have been absorbed into national legal settings. Correspondingly, research on the external borders of the EU has focused on the 1990 Schengen Agreement, its Convention, amendments and its integration into the EU body of law. These analyses are underpinned by an understanding of border *as* institutional integration. But are political borders contractually established institutions that exist beyond their *in actu* operationalization? Is a border socially effective by elite decision?

Rather than the mere document of the contract, or the map, I am interested in the production of these things, as they mediate a given political border: this is to say that they stabilize a network of references and tasks, align obligations, and thereby establish the power that is necessary for a political entity to enforce borders. The development of the EUROSUR network, which will be analyzed below, provides a valuable example of a map that is not only produced by a “new”

technology (GIS-generated digital map), but which also “maps” the operational area of a postnational border. Its development and its map will not be analyzed as representations of the border. The emergence of the EU border will rather be analyzed *via* the EUROSUR development phase.

The second proxy used to study borders is spatial practices and interactions. In the course of the spatial turn, and its emphasis on spatial practices and bordering practices, borders, too, have been analyzed *in actu*. By this I refer to a focus on practices of exclusion, discrimination and segregation for a deduction of border characteristics. From this perspective, borders are “dispersed a little everywhere” (Balibar 2002b: 71) and no longer where they used to be, that is at the border-line. This perspective is underpinned by an understanding of borders as interaction between border police and border crossers. These studies have predominantly been ethnographic. As apt as the description might be from the perspective of experiencing bordering, do borders exist as spatial practices? Are they constituted by their violations and control, and thus the cat and mouse between border police and border crosser? Would they not exist without these practices?

I take issue with this praxeological approach of analyzing borders with a focus on practices of exclusion, discrimination and segregation. This isn’t to say that these practices do not occur in the context of border management and border policing. However, borders are neither produced nor reproduced “bottom-up” on a daily basis; it is not border guards who produce the border through their patrolling routines, nor is it border violations which shape its constitution. Also, political borders are not as volatile as an emphasis on bordering practices might suggest. Therefore, neither the production of borders nor its reconfigurations should be analyzed *from the perspective* of spatial practices. Without intending to solve the chicken-or-the-egg question, I nonetheless argue that in the case of borders it makes sense to actually *start* the analyses with the *things* that mediate them, with the interobjective presence of political borders. Even if political borders are man-made, it is through technical mediation, and not through situational interaction that they unfold social effectiveness to a permanent, that is, relatively stable and durable extent.

This study is informed by the two aforementioned perspectives and by various analyses conducted under their premises. Yet, it proposes a somewhat different approach. As outlined above, the construction of an external EU border will be analyzed from the perspective of two of its mediators: the EUROSUR and the small boat. The methodology thus draws on Bruno Latour’s distinction between intermediaries and mediators (see particularly Latour 1993: 79-82, 2005: 37-42, 106-120). It takes on board the premise that selected research objects (in this

case the EUROSUR and the small boat) do not merely “represent,” “manifest” or “reflect” the object of investigation (in this case an external EU border), but substantially bring it about, engineer and tune its quality and form.

According to Latour, an intermediary “transports meaning or force” without transforming it, while mediators “transform, translate, distort, and modify the meaning or the elements they are supposed to carry” (Latour 2005: 39). This distinction particularly changes how a researcher looks at an object of inquiry. Taking the difference between silk and nylon as intermediary – the example is Latour’s (*ibid*: 40) – a researcher sees this difference as “transporting faithfully” (*ibid*) the social meaning that silk was for high-brow and nylon for low-brow. Silk and nylon are looked at as indicative or reflective of a particular status. Taken as intermediary, the shine, fabric, touch and feel of silk in contrast to that of nylon renders the social difference tangible; while the piece of cloth remains “wholly indifferent to its composition” (*ibid*). Taken as mediator, by contrast, the composition is what the researcher focusses on. He or she then examines how the chemical and manufacturing differences between silk and nylon fabricate and establish that which is socially effective as a tangible class difference in the first place.

If borders are thought of as intermediaries, this entails that their tools, guards, fences, institutions or practices are thought of as manifestations, representations or illustrations of the border as such. Meanwhile, understanding a border as a construction of mediators, its guards, institutions, contracts, surveillance gadgetry, and control practices are analyzed with regard to their crafting, stabilizing and assembling of that which is socially effective as the political border in question. Analyzing a given border as intermediary would only allow describing the two identities which are marked and separated by it. Its political performance could not be explicated. Analyzing mediators, by contrast, allows studying and explaining the fabric and the quality of a political border. In order to enquire about a border’s program, its sorting mechanisms and decisions, its markers and tools need to be considered, deciphered, and unpacked with regard to their constitution. As a methodological perspective to border studies, this allows for attention to be paid to the rules, morals, fantasies, cohesions, institutional corridors, political compromises and technical fixes that become part of a border’s fabric, as they are inscribed in the political construction of the border and its “tools.” From the many mediators that are currently constructing an external EU border, I have selected two, which craft the border to a salient extent.

In sum, a border does not exist, bordering is mediated. Therefore, I attempt not to study the emergence of an EU border *as*, but rather *via* its tools, markers, enforcers, contesters. Taken as mediators, the migrant vessel and the EUROSUR

will be analyzed with regard to their contribution in the construction of a political EU border. It shall be examined in how far they transform, distort, and shape supranational border policies. Framing these sites as mediators, it is argued that they transform and reconfigure the EU border in a unique way. In other words, it is assumed that without EUROSUR there would not be this level of supranationality, and that without the migrants' boat, there would not be this kind of supranational mandate. It is a kind of journey that is mediated by the boat, and certain kinds of policies which are composed and delegated by the EUROSUR. These things are in the mix when the decision between hunter and helper is made.

This study examines the construction and crafting of a supranational border from the perspective of two of its mediators: the European Border Surveillance System (EUROSUR) and the migrant vessel. The leading question of this study for the emergence of an external EU border is thus translated into the study of two empirical sites understood as its central mediators. Thus, the objective of this study is twofold: firstly, the emerging supranational, external EU border is analyzed as an example of a post-Westphalian, post-modern, post-national political border. This epistemological objective is a contribution to thinking about political borders beyond the modern state. Secondly, the external EU border is considered an intermediary imagination. Its already operative level of supranationality is mobilized, relocated, furthered, and legitimized by means of its mediators. Examining their design, this study unfolds how the kind and quality of the political border, which the EU shows, is crafted, shaped, produced and eventually stabilized.

### **1.2.1 Structure of the Study**

This book is divided into three parts. Following the introduction, Part I discusses concepts, theories and methodological challenges to the study of borders in general and the study of the construction of a supranational EU border in particular. Chapter 2 examines in how far the Schengen Convention constitutes an empirical novelty and whether it has (already) triggered a supranational EU border. I will then review selected analytical assessments of the Schengen Process, which draw on the example of Europe's borders while describing the reconfiguration of political borders in general. Critically engaging with these analyses, chapter 3 offers a general discussion of the distinctive conceptual characteristics of political borders, by analyzing the relation between thinking and researching borders.

The following six chapters constitute the empirical parts of the study at hand. Part II (chapters 4 to 6) examines the making of the European Border Surveillance System, EUROSUR, as a result of two parallel processes: the ICT-based

network and the legislation concerning its operating rules. Both products gradually developed between 2008 and 2013. The EUROSUR development phase is equally the period of investigation. Chapter 4 dissects the graphical user interface (GUI) of the system and thereby describes the setup of the EUROSUR IT-network; chapter 5 retraces the political negotiations which led to the EUROSUR Regulation. Chapter 6 discusses in what respect the technical network mediated the political process. I will discuss in how far the mere development phase of the EUROSUR has enabled the mobilization of the limits to border policing, and has increased competences on the side of the Frontex agency. Furthermore, the analysis will assess how the composition of an external border is mobilized and tuned by the denomination of a space called “pre-frontier” area.

Part III (chapters 7 to 9) follows the vehicle of the small boat both through the trends of Europe-bound flight and migration and through images, perceptions and surveillance efforts on the site of the European spectator. Chapter 7 gauges the particularities of boats and ships as means of transport and technology of movement taking into account their peculiar relationship to the medium of the sea. Analyzing the earliest empirical case of the appropriation, reception, and perception of boats and ships in the context of flight and migration, namely the case of the Vietnamese boat-people, the chapter extracts the political significance of the vehicular facilitator. Chapter 8 starts by describing the trends in Europe-bound migration by sea since the 1990s, including the numbers of deaths at sea. Section 8.2 then provides a detailed analysis of the verbal and visual reference to the “refugee boat” as unseaworthy, small and overcrowded, while section 8.3 takes issue with this seemingly self-explanatory image and summarizes the different narratives, fantasies, and judgements projected to the hybrid of the refugee boat. Chapter 9 probes the vessel’s role in distinguishing the migrants’ legal status. The analysis focuses on those legal arguments which revolve around the vessel itself: the vessel as stateless, as in distress, as suspicious, and thus as a target of surveillance activities. This allows testing the hypothesis that a prioritization of the vehicle in legal and operational reasoning – while at the same time bypassing or postponing addressing the human cargo – allows for operational practices which otherwise would have been difficult, if not impossible, to justify. Overall, I consider how far the hybrid of refugee boat acts as an integrating, if not mandating, figure in the construction of a supranational EU border. The refugee boat, in this arrangement, no longer crosses or subverts the border; it virtually *is* (at) the border.

The study concludes with chapter 10, which summarizes the findings and works out the characteristics and qualities of the external EU border. In conclud-

ing, the chapter finally shows the specific, if not constitutive, ambivalent features of EU border policies, and explores the emergence of viapolitics.

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