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Bordering on a Nightmare? A Commentary on the 2008 “Vision for an EU Border Management System”

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Abstract:

The new EU Border Package proposes the developments of the FRONTEX border agency, the creation of the European Border Surveillance System (EUROSUR), as well as a new checking system on entry and exit to and from the EU based on biometric data. In the author’s opinion, the EU Border Package only offers a technical solution, without addressing the deeper and more fundamental issues of social, economic, and political inequality.

On February 13th, 2008, Franco Frattini, the EU Commissioner for Justice, Freedom and Security, gave a press conference in Brussels where he presented “a comprehensive vision for an integrated European border management system for the 21st Century” (European Commission 2008a). The three communications of this “Border Package” envision a future where control and surveillance of Europe’s borders is “managed” through a whole series of new technologies.

More thorough monitoring

The first of the three EC communications offers an evaluation of the EU border agency *FRONTEX* and its possible future as a ‘European Border Guard’ (European Commission 2008b). *FRONTEX* became operational in October 2005 and has since conducted 33 campaign-like ‘joint operations’ on air, land and sea borders, as well as training courses, and feasibility studies on future border control technologies (ibid.: 3; Carrera 2007: 18-20). The subtext of the evaluation that Frattini presented in Brussels made it clear that the relevance of the new agency to date is not a substantial contribution to EU border controls, but rather for the production of experiences and cooperation networks that lay

the groundwork for further institutional and technological integration.¹ In future, the Commission suggests, FRONTEX should be given its own border control equipment, the right to operate in non-EU-countries, new offices in Southern Europe and the coordinating position of EUROSUR, the planned “system of surveillance systems” (European Commission 2008c). The *EUROSUR* project described in the second Communication, if realised, will, by 2013, make use of satellites, drones and other intelligence – all integrated into one comprehensive network – to monitor Europe’s borders from the Baltic Sea to the Canary Islands. The final Communication envisions a new *visa entry/exit system* where all visa holders would be biometrically registered upon entry and exit at EU border posts (European Commission 2008d). If a visa holder were to overstay his or her visa, the system would automatically issue a search warrant for the suddenly illegal migrant (ibid.: 7). Through the same system, so called ‘bona fide travellers’ (EU nationals, frequent business travellers, etc.) would experience simplified and speeded-up controls consisting of a brief computerised biometric identity check (ibid.: 5-7).²

In a sense, however, these initiatives are nothing new. They are the provisional results of years of political struggle over the *EU Border Management Strategy* (cf. Carrera 2007) and the military-driven *EU Security Research Programme* (cf. Hayes 2006). Whether the “vision” presented by Frattini in February 2008 is a wonderful dream or rather a nightmare remains open to debate. I put forward three central arguments that suggest that it is the latter, rather than the former.

“Saving lives at sea”?

First EU migration policy is directly responsible for the death of migrants. As a result of the nearly complete closure of legal immigration channels (except those channels exclusively for the rich, the “highly-skilled”, close family members and some others) and increasingly restrictive border controls a large part of the refugee and labour migration to the EU is forced into crossing EU borders illegally. Contrary to the much-repeated claim that the EU is dedicated to “saving lives at sea” (see, for example Frattini 2006), EU migration policy is directly responsible for the death of thousands of refugees and migrants every year that seek only a better life. Operations by FRONTEX and surveillance systems like EUROSUR would further force them to take enormous risks when setting out to the open sea in small, un-seaworthy boats. The proposed *entry/exit system* would probably push even more people into dangerous border

¹ Despite a radical increase in the FRONTEX-budget from about 19 million Euro in 2006 to 70 million Euro in 2008, this is still not much compared with the sum paid by member states to control the thousands of miles of EU borders (FRONTEX 2008).

² The Commission has planned to integrate this entry/exit data in a common technical platform with the SIS II, VIS and EURODAC data bases (European Commission 2008d: 8 ; Hayes 2006: 43).

crossings. Migrants who today overstay their visa will certainly try to avoid biometric registration and the automatic search warrant that would be issued for them after three months.

The second major criticism is the violation of European and international law by FRONTEX joint operations that intercept boats with prospective migrants before they leave the territorial waters of African states (Carrera 2007: 23). People are declared to be “illegal migrants” before they enter EU territory. In violation of the principle of non-refoulement, they are forcefully returned to African countries that have long histories of human rights violations; they are returned without the case-by-case assessment of individual eligibility to asylum, without a written substantiation of the refusal, without a right to appeal required by the 1951 Geneva Refugee Convention and other international, European and national legal norms (cf. Weinzierl/Lisson 2007; Carrera 2007: 27). It is especially cynical that the EU, an institution that presents itself as a guardian of human rights vis-à-vis US policy in Guantanamo, tries to escape its own obligations under European and international law using similar arguments to those that the US uses to defend its Guantanamo policy; stating that the Geneva Convention does not apply to their security forces outside EU territory (cf. Schily 2005: 1; Carrera 2007: 28).

A third criticism is that the EU border agency FRONTEX lacks democratic accountability. While the European Parliament and the Council have authority over the agency’s budget, the “risk analysis processes” underlying all its operations are kept secret. Thus, the very basis of its border control operations is removed from democratic control, and suffers from democratic deficit. As long as the control functions of the European Parliament and the public are limited in this way, FRONTEX cannot be considered to have much democratic legitimacy (cf. Carrera 2007: 14-17).

These criticisms demonstrate that the future vision of EU border control looks rather bleak. Its institutional and technological innovations threaten the human rights and liberties of refugees, migrants and the general population. The proposed future of EU Border Control offers frightening surface solutions for deeper and more fundamental social, economic, and political problems. The EU’s “vision for an integrated European border management system” resembles a nightmare wherein which every movement is registered and monitored, and every citizen and migrant is biometrically profiled and cross-referenced in an array of data bases – a system in which not only the spatial mobility of individuals but also society as a whole, is subjected to a control regime that is driven equally by a law-and-order rationale and market fundamentalism.



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