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The securitization of the Common European Asylum System
Case study: Iraqi refugees

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MA Programme Euroculture Declaration

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List of Abbreviations

CDA  Critical Discourse Analysis
CEAS  Common European Asylum System
ECJ  European Court of Justice
EP  European Parliament
EUROPOL  European Police Office
EURODAC  European Dactyloscopy
FRONTEX  European Agency for Integrated Border Management
IOM  International Organization for Migration
MS  Member States
PDA  Poststructuralist Discourse Analysis
QMV  Qualified Majority Voting
SIS  Schengen Information System
UN  United Nations
UNHCR  United Nations Human Rights Council
VIS  Visa Information System
Abstract

This research paper seeks to find out whether the inflow of Iraqi asylum-seekers has influenced the EU to frame asylum as a security challenge. The Iraqi migration is examined in relation to the development of the Common European Asylum System. The main hypothesis is that given the EU’s unsettled policy, the Iraqi influx of asylum-seekers represented a test to the advancement of the common asylum policy. The idea of the common asylum policy emerged on the EU’s political agenda in the late 1990s and to this day, the EU is still struggling to establish it. By constructing the analysis around the relation between the discursive and non-discursive practices, the research attempts to identify whether asylum has been conceptualized as a threat to the EU’s wellbeing. This will be feasible by employing interpretive policy analysis on several documents from the Council of the EU, the European Commission and the European Parliament.
Introduction

The idea of a Common European Asylum System [CEAS] has been prominent on the EU agenda since 1999, with the EU institutions trying to set up the jurisdicive foundation of the asylum policy. Nonetheless, little progress has been made in the area of asylum during the last two decades given the EU’s decentralized and fragmented approach to reaching a consensus on the baseline of the asylum policy. Moreover, while struggling to establish the asylum *acquis* by bringing to a common denominator all the national asylum systems, the EU’s unsettled asylum policy was already put to a test by the influx of Iraqi asylum-seekers, reaching its peak in 2007. Consequently, this research paper is meant to point out whether and how the inflow of Iraqi asylum-seekers tested the development of the asylum-policy, leading further on to the securitization of asylum in the EU. The pertinence of this study lays in its attempt to provide a comprehensive grasp of the EU’s policy response to what has been called, the Iraqi refugee movement, and eventually, use the past lessons as a reference point for the EU’s current migration challenges.

The establishment of the CEAS first appeared on the EU’s agenda in October 1999, following the Council of the EU’s special meeting in Tampere. What followed was the first multi-annual program guiding the EU’s course of action in Justice and Home Affairs related matters. Migration ranked high on the agenda, with a particular emphasis on the CEAS and its initial framework, which had to be built on the “inclusive application of the Geneva Convention”.\(^1\) Thus the Tampere Program, being the first multi-annual program, had a visionary and ambitious plan for the creation of the asylum policy in order to encourage the Member States [MS] to work together on. By sketching the primary scheme of the CEAS around the EU’s foundational values, the Tampere Program paved the way for a humanitarian discourse in the area of immigration and asylum. The fundamental reasons behind this type of discourse were found in the international approach to asylum-seekers and refugees. This approach has been mainly focused on offering short-term solutions to the needs of the asylum-seekers, overlooking the long-term solutions and employing a humanitarian discourse.\(^2\)

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To what extent, the EU has managed to take several steps towards achieving the objectives the institutions had agreed on during the Tampere Program, remains debatable, particularly given today’s context in the EU. But sixteen years later, the European Agenda on Migration underlined the fact that “the EU needs a clear system for reception of asylum-seekers inside the EU”.\(^3\) The Commission’s declaration revealed a lack of concrete progress towards harmonizing the common minimum standards for asylum in the union. Nevertheless, the Tampere Program did set the foundation for the future CEAS. Subsequently, five years later, the Hague Programme came into force to continue the groundwork of the Tampere Program, by establishing several objectives meant to ensure protection to refugees, control migration flows and provide a better management of the EU’s external borders\(^4\).

Back in October 1999, bringing into discussion the asylum policy was not accidental. This seemed more or less the right timing considering that the Kosovo War had just ended and the EU saw coming thousands of people fleeing the violence and seeking protection. The conflict from the Balkans was one of the circumstantial factors that had pushed the European leaders to take a deep look into the EU’s asylum landscape. But this was not to be the last refugee inflow Europe would have to handle. Four years later, after the coalition forces invaded Iraq, the international community was witnessing again an atrocious war, which would later result in five million refugees and internally displaced people. Nonetheless, the invasion of Iraq did not trigger the inflow of refugees, as several international organisations had expected. What was later to be classified as the Iraqi refugee movement began three years later, after the bombing of the Al-Askari mosque in Samarra, which led to the outbreak of the war.\(^5\)

The influx of Iraqi asylum-seekers tested out the basic institutionalised practices of the asylum policy put together by the EU, before 2007. Furthermore, the EU did not show any coordinated response to the Iraqi refugee movement. Instead, each member state dealt with the increasing number of people fleeing the violence in Iraq on the basis of their national asylum policies.\(^6\) For that reason, the main research question, which

\[^{3}\text{European Commission, “A European agenda on migration”, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the regions, COM (2015), 240 final, Brussels, 13 May, 12.}\]


\[^{5}\text{Phillip Marfleet and Dawn Chatty, “Iraq’s refugees – beyond ‘tolerance.’”, Forced Migration Policy Briefing 4, Refugees Studies Centre, December 2009.}\]

has to be answered, is whether and how the EU has securitized asylum, following the influx of Iraqi asylum-seekers.

In the past decade, several scholars have been studying the EU immigration and asylum policy field, their studies pointing out that the reasoning behind the immigration policy is based on ensuring security within the EU. Moreover, several research studies have analyzed the Migration and Home Affairs Area through the securitization approach, focusing on policies dealing with legal migration, irregular migration and return, Schengen Area and border management. To our information, little research has been done only on the asylum policy, through the securitization approach. Our choice of the case study is to some extent self-evident since by September 2007, there were more than 4 million displaced Iraqis inside Iraq and in the neighboring countries. Furthermore, UNHCR signaled that in 2007 Iraqis came to be the leading nationality seeking asylum in more economically developed countries, with 19,800 Iraqi asylum inquiries in the EU, in the first half of 2007. Yet, as shown in the statistics from UNHCR, only 4% from the displaced Iraqis around the world could apply for asylum in Europe. With 95% of the Iraqis still being caught in the ongoing war in Iraq or in the neighboring countries, the imbalance between the numbers is highly noticeable. Whereas there is a high disparity between the percentages, the inflow of Iraqi asylum-seekers has still challenged the development of the asylum policy, being called by UNHCR, “a humanitarian crisis”.

In order to answer our main research question, we first need to acquire an extensive view on the EU’s asylum policy scenery. Given that the asylum area is quite new in the EU context, we will first shed light on its initial phase and how the EU constructed its discourse around asylum and asylum-seekers, before the actual refugee movement started. Subsequently, our analysis will naturally switch focus on the Iraqi

2007, 4.
9 UNHCR, Statistics on Displaced Iraqis around the World, Global Overview, September 2007.
10 Ibid.
11 UNHCR, Statistics on Displaced Iraqis around the World, Global Overview, April 2007.
influx of asylum-seekers, by allowing us to identify any security-oriented discursive shift caused by this inflow. As the evolution of the CEAS has been marked by three programs looking at several aspects of Justice and Home Affairs in the EU, they are highly relevant for our chronological analysis. Hence, we will structure our study according to these programmes.

The theoretical framework of the present research is a combined one because it makes use of two analytical frameworks. Firstly, we start our research by adopting the analytical framework of “securitization”, as defined by the Copenhagen School, so as to look at whether asylum has been transposed into a security matter within the EU policy discourse. Secondly, the direction that this research intends to take is more than to take into consideration only the speech acts, which would suffice to see whether asylum has been securitized or not. But since we will use the Iraqi War as a case study, it is essential to also take notice of the context in which the speech act emerges. As Balzacq also claims, securitization is the result of a collection of factors involving the context, the audience and the political agency. If we consider only the speech act addressing a phenomenon as a security matter, we risk neglecting the various implications around the securitization process. Securitization represents a more complex process, which cannot be identified only through the analysis of verbal utterances, given the multitude of factors and conditions leading to it. Hence, given the versatility of the securitization, we cannot overlook the conditions surrounding the entire process.

As to the proposed methodology for the current research, we will employ interpretive policy analysis. This qualitative method is appropriate within this research because we are interested in the broader meaning of the asylum policy. The documents we will look at consist mainly of EU working documents such green papers, communications, reports, statements and draft legislations.

A short theory and methodology part follows the introduction, which establishes the general theoretical framework together with the analytical frameworks supporting our research, as well as the methodology applied to the collected data. The second chapter will look into the historical context of our case study, the Iraqi War.

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14 Ibid, 193.
Subsequently, we proceed with the analysis of the EU policy documents in order to observe if the architecture of the asylum policy has been outlined according to a security logic in the EU policy discourse. The analysis will be divided into three parts, with each part focusing on one of the five-year plans with guidelines for Justice and Home Affairs for the EU’s MS: the Tampere Program, the Hague Program and the Stockholm Program. The next chapter brings together the main findings of the research, followed by the last chapter setting out the direction for future research.
Theoretical and methodological framework

The theoretical framework of the present research embraces the field of securitization studies, as the Copenhagen School has formulated it. Additionally, we will enhance the analysis by bringing into discussion Bigo and Balzacq, who have slightly different stances on the securitization of migration than the Copenhagen School. Before delving into the analysis of the CEAS in order to see if the asylum-seekers have been categorised as a threat to the EU’s security, we will take a detailed view into the securitization field of studies.

This research paper adopts the wideners’ view on securitization, choosing to maintain the security agenda open to many different types of threats, as opposed to the state-centred and military oriented traditionalist view. The new security framework received criticism from the traditionalist scholars who emphasised that giving priority to non-military causes in the international conflicts, will dilute the meaning of security. Since this research paper focuses on the wideners’ view on securitization, the debate between the traditionalists and the wideners in the security field of studies is beyond the scope of this study.

Waever has defined security as the situation when the state promulgates measures meant to stop the advancement of a threat. On the same page, securitization is the process where something is introduced as an existential threat, therefore any extraordinary measures to oppose the challenge become legitimate, regardless if they contravene the norms of the normal politics sphere. Yet, since security is “a self-referential practice”, a securitizing speech act does not necessarily lead to the securitization of a certain issue. The issue is securitized only when the audience responds to the securitizing act, meaning there is a consensus and acceptance of the existential threat, which has also been perceived as such by the audience. Once the audience shows support to counterbalance the threat, overstepping the parameters of the normal politics emerges as a justifiable move.

Having said that, throughout the analysis, we will take into account four factors which will indicate a successful securitization: the articulation of an existential threat, the existence of a referent object, an immediate reaction to the threat, and the general agreement upon the existence of the threat and the measures employed to counterbalance it. In our case, since the analysis focuses on policy documents issued by the EU institutions, the consensus mentioned above is to be found between the EU institutions.

Before delving into the analysis, let us say that since security can be approached objectively and subjectively, it is important to know that securitization is an intersubjective process. Therefore, we will look at the actors involved in this process to see if whether they stand on the same ground on the asylum policy. Buzan et al. have pointed out the difference between processes of politicization and securitization. Defining these two processes differently will prevent us from intermingling them. The politicization of the asylum policy involves integrating asylum in the public policy, based on government decision and allocation of resources, in order to better handle this matter. A favorable outcome of the securitizing move results in the securitization of the issue in cause, which has been previously introduced as an existential threat. But the success of the securitization ranges depending of the position held by the actor.

Having established the widely used grammar of securitization, the elements above mentioned indicate the securitization process, regardless of the sector. In the case of migration, it has been strongly linked to societal security and identity. But in the context of a group’s particularities and distinctiveness in relation to migration, identity becomes the vulnerable factor. The nature of the threat depends upon the type of migration and the host society, but among the most common, there has been a societal anxiety of a cultural clash and overriding influences affecting the identity of the host society. Essentially, the identity is referred to as the “we”, turning into the referent object. Certainly, this is only a frequent pattern indicating the securitization of migration, but it is not the only one. Several other references to possible societal referent objects can emerge in a speech acts and can be related to economics, development and politics. Nonetheless, given the division between sectors in the new

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23 Ibid, 121.
24 Ibid, 123.
analysis on security as argued by the Copenhagen School, it is helpful to differentiate between the categories of referent objects, depending on the sector included in the analysis.

As Waever indicates, in order to see if something is introduced as a threat, by placing it above other issues and highlighting its seriousness, textual analysis is very supportive.\(^{25}\) Furthermore, Buzan supports this idea by saying that examining political discourse is the best approach to study securitization.\(^{26}\) Nonetheless, Bigo articulates this fact as one of the weaknesses of the Copenhagen School by arguing that analysing only the speech acts will not suffice to show the degree of securitization.\(^{27}\) Considering threats are socially constructed, Bigo claims that the securitization of immigration is the result of the interaction between convincing speech acts of political leaders and non-discursive practices, such as legal devices, political rhetoric, policy practices, surveillance technologies and discourses on human rights.\(^{28}\) Therefore, since the speech acts depend upon a set of circumstances, it is mandatory to evaluate the context where the speech acts emerge. Given the heavy weight of the context in the securitization process emphasized by Bigo and Balzacq,\(^{29}\) we need a more accurate definition of the “speech act”, which, on the other hand, remains the central element of the Copenhagen School. Thus a speech act represents a performative utterance possessing the competence of changing the social reality it describes.\(^{30}\) But focusing exclusively on the speech acts means to ignore the arguments and reasons leading to some particular phenomena to be constructed as threats. Thus, this is something we will avoid to do by ensuring that we take into account the context in which a security-oriented discourse becomes possible.

Additionally, Bigo’s definition of securitization in the case of immigration brings into discussion a new element, which has not been put forward by the Copenhagen School. The non-discursive practices represent the core of the securitization process, as Bigo explains it. Among the non-discursive practices, Bigo

\(^{29}\) Ibid, 66.
mentions the usage of security-oriented technologies, surveillance systems and the omnipresence of security professionals, including policemen, intelligence services and military people.31 Thus technology becomes a measure to protect territorial borders, when the politicians and the security professionals identify a group of people coming from the outside as a potential risk.32 The technological means the security professionals make use of include biometric identifiers, fingerprinting, IT systems tracking residence, accommodation and exit of the migrants, surveillance and data storages.33 This technological response occurs when they correlate migration to terrorism, crime and illegal immigration.34

We argue that by paying equal attention to both discursive and non-discursive practices, we will obtain a more comprehensive view on whether the notion of asylum has been constructed as a security threat in the EU. Moreover, we claim that the theoretical approaches we employ are not meant to contradict each other, but they insist on different elements central to the process of securitization. The relation between the discursive and non-discursive practices will prevail throughout our research. First we will do so because we acknowledge that security does not exist only within the discourse. Secondly, securitization can emerge as a result of the congruence of several factors brought together.35

The method used in this research paper to investigate whether the CEAS has been securitized or not, is interpretive policy analysis. Interpretive policy analysis is different from the “classical” policy analysis because it emerged as a discontentment with the positivist approaches, more popular for the policy analysts in the 1960s and 1970s.36 The cutting-edge aspect of interpretive policy analysis is that it tries to escape the essentially positivist angle policy analysis has been taking in the past few decades.37 In consideration of the post-positivist-constructivist stance of the securitization literature, interpretive policy analysis is “based on the presupposition that we live in a social world characterised by the possibilities of multiple interpretations, since there are no “brute data” whose meaning is beyond dispute”.38 By using this approach, we will

32 Ibid, 77.
34 Ibid, 394.
37 Jason Glynos et al., Discourse Analysis: Varieties and Methods, Centre for Theoretical Studies in the Humanities and Social Sciences University of Essex, August 2009, 22.
not try to identify the costs-benefits balance of the asylum policy, but we will look into its meaning and eventually, observe the process of whether and how the asylum-seekers have been constructed as a threat.

Yet, the operationalization of interpretive policy analysis remains to some extent ambiguous since little has been published about it. Yanow reveals that the analyst will have to determine the actors with a vested interest in the formulation and implementation of a certain policy, but also the policy craft process in order to understand how the entire process is drawn up. Moreover, since the policy-making is a “problem-solution” oriented process, we employ Fairclough’s approach to policy analysis by zooming in on “the relationship between problems and solutions.” This approach leads to targeting the reasoning and argumentation behind the act of setting governmental standards. Additionally, this method distances itself from critical discourse analysis [CDA] and poststructuralist discourse analysis [PDA] because the problem-solution link becomes its main focus, whereas CDA and PDA tend to focus upon imaginaries, neglecting the problematization of the process. Through problematization, we understand the practice of examining new challenges asking for solutions. Hence, we associate this practice with the securitization process, which entails the indication of a threat leading to a measure counteracting the threat.

As to how we are going to practically use this method, first we will identify the policy community in question, meaning the institutions involved in the process of issuing a certain policy. After we have identified the actors who perform the speech acts, we can proceed with the analysis so as to “identify the artefacts through which meanings are expressed, communicated and interpreted”. Moreover, as Fischer says, “In addition to the dominant discourses, competing discourses struggle to gain recognition and power.” Therefore, since we are interested in a broader understanding of discourse, we will take into account the speech acts, the context and the actors, but also the existence of any opposing viewpoints. The definition of discourse we adopt throughout this research is the one provided by Fischer, insisting that the main aim of a

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39 Yanow, *Conducting interpretive policy analysis*, 7.
40 Ibid.
42 Ibid, 184.
43 Fischer, *Reframing Public Policy*, 149.
44 Fischer, *Reframing Public Policy*, 77.
discourse is to communicate a message.\textsuperscript{45} Thus we should not analyze words or phrases separately, but take into consideration the overall idea it addresses. The relevance of this analysis counts on identifying the existence of a security threat, followed by a series of measures to come up against the threat and the existence of an institutional agreement. All these elements will be placed in a context, meaning that we will look at who performs the speech act, who are they representing and with which outcome. The empirical data we will look at is mainly composed by primary sources such as policy documents issued by EU from 1999 to 2014.

\textsuperscript{45} Ibid, 76.
Iraqi Migration to the EU

The 2003 American invasion of Iraq has led to a series of traumatic outcomes for the country and its society. In the aftermath of the war, the political, social and economic situation in Iraq remained essentially unstable, which has also caused a power imbalance in the Middle East.\footnote{Frederic M. Wehrey, *The iraq effect: The middle east after the Iraq war.* (Santa Monica, CA: RAND, 2010), 24.} Of course, one of the major consequences of the Iraq War has been and continues to be to this day, the striking number of refugees and internally displaced people. Reports from UNHCR showed that in 2007 the leading country of nationality for refugees in the EU was Iraq.\footnote{UNHCR, Statistics on Displaced Iraqis around the World, Global Overview, September 2007.} Certainly, this was not the first time the EU was receiving high numbers of asylum applications from Iraq. UNHCR revealed statistics showing that in 1998, the second largest group that was seeking asylum in the EU consisted of Iraqis, following the Iran-Iraq War.\footnote{UNHCR, Refugees and others of concern to UNHCR: 1998 statistical overview (Geneva: UNHCR, June 1999).} Moreover, Iraq was the first country of origin of the recognised asylum-seekers under the 1951 Geneva Convention.\footnote{Ibid, Table VI.1 and VI.2.}

During the last two decades, Iraq has generated high numbers of asylum-seekers and refugees into the EU’s territory. The EU has acknowledged the seriousness of the situation since 1998, when the Council included on the list of discussed items, the “Illegal immigration from Iraq and the neighbouring countries”.\footnote{The Council of the European Union, 2066th Council Meeting, General Affairs, 5271/98 Brussels, 26 January 1998.} Nevertheless, by labelling the high inflow of migrants the EU was receiving as illegal immigration, indicates that the EU ignored the humanitarian aspect of the Iraqi inflow. The Council, through its Action Plan dating from 26 January 1998, reinforces this argument. On the one hand, the Council recognised the increasing number of migrants coming from Iraq. But on the other hand, the Council stated that “many are economic migrants but a substantial number is in need of protection.”\footnote{Ibid.} Whereas the EU addressed clearly from the beginning the migratory wave coming from Iraq, it showed a lack of precise data on
the causes of the situation, mentioning that “reasons for the influx are complex and unclear.”

According to these facts, one could argue why we have chosen to focus on the migratory wave caused by the Iraq War, excluding the previous migration inflow from Iraq. The main factor that contributed to this choice is the timing of the creation of a common asylum policy, taking its place on the EU agenda since the Tampere Program, in 1999. Therefore, we saw the influx of Iraqi asylum-seekers from the 2006-2007 as the main challenge to the development of the CEAS and we proceeded with the research so to see if there is any causality between the securitization of asylum in the EU and the Iraqi asylum-seekers. But before investigating this aspect, let us briefly examine the historical context of the Iraq War.

One of the prevailing questions among the scholars who have studied the Iraqi War is to what extent Iraq represented a danger to the world security, which could have made the coalition forces invasion justifiable. After the 9/11 attacks, U.S accused Iraq of possessing long-range missiles and weapons of mass destruction which made U.S to intervene militarily in Iraq. Moreover, the end of Sadam Hussein’s dictatorship led to a civil war due to the widespread sectarian violence between Shiites and Sunnis, terrorism and the ethnic-political struggle for power. The U.S presence in the country has vested the Shiite majority on the government, which has increased the resentment between the minorities.

The Iraqi society has remained strongly disintegrated, given the lack of a political settlement, which could alleviate the on-going sectarian violence in the country. Subsequently, the war and the ethnic conflict have led to an unprecedented flow of refugees and internally displaced people in Iraq and its neighbourhood. The persisting violence, a precarious healthcare system, a questionable economic resetting and the lack of food subsidies have made millions to run away. The Iraqi migration has been seen as one of the most serious forced migrations in the history, with UNHCR claiming that since the beginning of the Iraq War, 15% of the Iraqi population has left their homes.

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52 Ibid.
Until late 2006, the Iraqi forced migration has been to some extent overlooked by the global aid organizations.\(^{59}\) International Crisis Group raised the international attention by saying that the majority of Iraqi refugees were exposed to involuntary return and exploitation since they had no means to support themselves.\(^{60}\) Furthermore, the majority of the refugees were dependent on humanitarian aid and illegal labor. By 2007, the expanding displacement crisis reached 4.2 million, with 2.2 million internally displaced within Iraq and more than 2 million outside the country.\(^{61}\) The increasing numbers of asylum-seekers have impacted mostly the neighboring countries, which were not prepared to receive them. UNHCR indicated that the insecurity and instability from Iraq has produced the largest population displacement in the Middle East since Palestinians were forced out following the creation of the State of Israel in 1948.\(^{62}\) The widespread movement has not only influenced the socio-economic stability in Iraq, but also in the neighboring countries. In countries like Syria, where the Iraqi refugees made 7% of the population back in 2007, or Jordan, being an easy-to-reach destination for the Iraqi refugees, the socio-economic situation started deteriorating, as the countries’ resources for humanitarian aid reached an end.\(^{63}\)

The attack on the Samarra Shrine in 2006 strengthened the civil war from the country, leading to a crucial humanitarian crisis by displacing a huge number of people. The bombing of the al-Askari Mosque resulted in resentful violence by Shia and Sunni armed groups, which generated the beginning of the civil war where citizens were “systematically targeted through intimidation and acts of terror”.\(^{64}\) The purpose of this violence was to form religiously and ethnically uniform areas in the country, by suppressing the religious and ethnic minorities.\(^{65}\) The Ministry of Displacement and Migration and the Kurdish Regional Government along with several international organizations such as UN and UNHCR, accounted for two million Iraqis having fled to the neighboring countries.

The crisis, as it has been called by UNHCR, resulted in a serious number of displaced people, within and outside Iraq. UNHCR estimated in March 2007 that 2

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\(^{59}\) Ibid.


\(^{61}\) UNHCR, Iraq: Rate of displacement rising, 28 August 2007.


\(^{64}\) UNHCR, Update on the Iraq Situation, November 2006.

\(^{65}\) Ibid.
million Iraqis became refugees and 1.9 million were displaced or moved to safer areas in Iraq. The international community had been caught off the guard in dealing with the huge number of refugees.\textsuperscript{66} The massive Iraqi displacement from 2006-2007 developed into a serious regional challenge since the regional actors foresaw a massive chain reaction on the stability of the Middle East region, caused by the civil war in Iraq.\textsuperscript{67}

Several international organizations such as UNHCR and the International Organization for Migration [IOM] expressed their concern as to how burdensome it became for the asylum-seekers to arrive close to the European borders, describing it as a dangerous journey.\textsuperscript{68} Scholars, investigating the way the EU has addressed the refugee displacement from Iraq, have pointed out that the EU should have taken a more influential role into the humanitarian struggle of Iraqis.\textsuperscript{69} Jordan and Syria have displayed more resilience towards the Iraqi refugees, despite both countries having limited resources, contesting social needs and valid security concerns. They have been receiving high numbers of Iraqi asylum-seekers by providing them legal refugee status together with decent conditions to live in.\textsuperscript{70} Nonetheless a report from the Commission from 2008 showed that the EU acknowledged the situation of Iraqi asylum-seekers and the degree to which the EU got involved.\textsuperscript{71} The report stated clearly that in 2006 and 2007, the leading nationality for the asylum claims in the EU was Iraqi.\textsuperscript{72}

\textsuperscript{67} Ibid.
\textsuperscript{70} Ibid, 24.
\textsuperscript{72} Ibid, 8.
Chapter 1. The Tampere Program

First part delves into the time period covered by the Tampere Program, from 1999 to 2004. This covers the initial development of the EU’s asylum policy and we will look into several documents from the European Commission, the Council of the European Union and the European Parliament to identify if whether the fundamental basis of the asylum policy has been shaped according to a security logic. The reason we start our analysis earlier than the period covering our case study is mainly related to the creation of the standard asylum policy occurring during the Tampere Program. Likewise, given the crucial role the first multi-annual program had in the achievement of the CEAS, we plan to identify the archetypes employed in the discourse on asylum in its precursory phase. Eventually, as the analysis will follow the chronological progress of the CEAS, being later on marked by the beginning of the Iraqi War and the inflow of asylum-seekers, we will be able to distinguish any variation or refinement in the discourse on asylum from one policy program to another.

1.1. Discursive agents behind the asylum policy

The analysis of the EU’s discourse, represented by the three main institutions, revealed the existence of a power struggle between the agents issuing the discourses in the area of immigration and asylum. By power struggle within the framework of the securitization theory, we refer to Bigo who states that:

(…) the primary problem is ideological and discursive because securitization derives from its language itself and from the different capacities of various actors to engage in speech acts.73

Thus, the formulation of asylum as a possible threat to the societal security is the result of the interaction between two factors favoring this process: the political speeches and their impact on the group they address to, providing the securitizing actors with the support they need.74 Furthermore, a successful securitization depends upon the position held by the actor performing a securitizing speech. Acknowledging each EU institution’s competences in the area of asylum will provide a more exhaustive understanding of the decision-making process in this area. Moreover, we can ultimately

74 Ibid.
identify if the EU actors have depicted the asylum-seeker as a threat, legitimizing the restrictive dimension of the CEAS.

Following the Amsterdam Treaty’s entry into force, the EU acquired competence over asylum and immigration issues. This transfer of power meant a switch in the decision-making process from an intergovernmental approach to a supranational one. Nonetheless, until 2005 the EU governance in the asylum and immigration area remained under the transnational umbrella. The significance of the Amsterdam Treaty remains central for decision-making in the EU because it cleared away “a fragmented institutional and normative panorama”. However, other studies showed that the slow conversion from the MS level to the European level has produced some hesitations among the national elites as to the EU’s potential to come up with adequate answers to immigration matters. As regards the area of immigration and asylum, the transfer of power meant the replacement of several divided national perspectives with a supranational one. But this has not involved a radical turnaround in the policy-making since “the European discourse has not changed so dramatically and the old national discourse on security was replaced by a re-invention of the same.”

Hence, throughout the Tampere Program, the Commission shared its limited role with the member states, whereas the European Parliament had only an advisory function, which leads to conclude that until 2005 the decision-making has been essentially intergovernmental. The Justice and Home Affairs Council has been the dominant securitizing actor because it owned exclusively the decision-making power.

1.2. Discursive patterns

Throughout the Tampere Program, the EU institutions have constructed their discourse on immigration and asylum around the establishment of the area of freedom, security and justice. This occurred following the Council’s meeting in Tampere in October 1999, where European leaders gathered to transform this area into an immediate goal for the

78 Ibid.
79 Van Dijck, Is the EU policy on illegal immigration securitized? Yes of course! A study into the dynamics of institutionalised securitization”, 15.
Previous research on the area of freedom, security and justice in relation with the irregular migration policy field has showed that the main objective of the area has been to set apart “the Inside from the chaotic Outside”. This separation between the EU citizens and third-country nationals marked the opposition between “us” and “them”. Certainly, this antagonism has emerged in relation with irregular immigration.

But the research has pointed out that this argument remains valid in the case of asylum-seekers as well. The EU has been employing the word immigration, “covering heterogeneous situations”, without naming the specific type of migration and allowing thus this confusion between the composite meanings of immigration.

Nevertheless, the threat, in this sense, is not represented by the asylum-seekers, but by their background, which could dismantle the area of freedom and security. The refugees and the asylum-seekers are distanced from their victim status in the EU policies, leading further on to a disputing point between ethics and pragmatism. A binary rationale takes place in the EU’s discourse: on one side, given the humanitarian rhetoric, the asylum-seekers are not being directly referred to as “threats”, but on the other side, the “othering” process takes places rather naturally. The arguments behind this reasoning revert to the European civilisation, even long before the EU was founded, when the “other” reinforced the notion of European identity. Nonetheless, this tradition continues to prevail, as the European identity is at stake given the high numbers of migrants, who might not share the same values the EU has.

This division between “us” and “them” is prevalent in the EU’s discourse, given the key elements we have identified and which suggest this demarcation. Firstly, both the Council and the Commission have stated that the boundaries of the area of freedom, security and justice were meant to protect the EU citizens from the unknown migrant. Despite not naming directly the threats, this is an example of a securitarian discourse where the idea of a threat is strongly implied. As Huysmans argues, “threat definition

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83 The concept of “European identity” that we employ here is the one associated with the European Union and its fundamental values such as respect for human dignity, liberty, democracy, equality, the rule of law and respect for human rights.
creates a self and an other in a process in which the definition of the self depends on the
definition of the other." Secondly, the EU has been using this opposition as part of the
fabrication of a new image of the EU, meant to ensure its role as a moral actor. Furthermore, this actually explains why the EU institutions formulated a security
discourse, which could still be read in a humanitarian note, where solidarity, human
rights and ethics were key elements. Thus, being divided at times by diverging national
views, the EU reached a phase when its solidarity and humanitarian values could be
questioned, thus the “other” became “the solidarizing factor”. Thirdly, the fact that the
EU is referred to as an “area” produces the image of a community, leading consequently
to a barrier between “us” and the “other”. Bigo has also stated that the purpose of the
terminology, referring to “freedom” and “justice” have been reduced to a lower stage as
opposed to security, by using also the implied comparison between freedom and
security.

Another prevailing element which we have identified regularly has been a
constant reference to the EU’s external governance in the transit countries and countries
of origin. The main proponent of the EU’s partnerships with third countries has been the
Commission, endorsing cooperation with third countries based on shared responsibility
and strengthening the protection capacity of regions of origin. The way the
Commission chose to formulate its discourse endorsing the EU’s external governance
through partnerships with countries of origin, showed a more refined vision of
expressing its objectives. The Commission constructed its pitch around the mutual
advantages these bilateral partnerships would have for both sides, emphasizing the
necessity of reinforcing ways of administrative collaboration between the EU and the
countries of origin. Moreover, the Commission saw these partnerships as a means to a
better managing of the increasing number of asylum demands, focusing on

84 Jef Huysmans, “Migrants as a Security Problem: Dangers of “Securitizing” Societal Issues,” in Robert
Miles and Dietrich Tharhardt (eds), Migration and European Integration: The Dynamics of Inclusion and
85 Alessandra Buonfino, “Between unity and plurality: the politicization and securitization of the
86 Hellberg Uliana, “Securitization as a modern strategy of constructing identity: ‘negative proof identity’
87 Alessandra Buonfino, “Between unity and plurality: the politicization and securitization of the
Balzacq and S. Carrera (eds), Security versus Freedom? A Challenge for Europe’s Future, Aldershot:
89 Council of the European Union, “Main elements of the Irish Presidency programme on immigration,
strengthening the protection capacities in the regions of origin and standardizing the access in the union, building entry plans and resettlement programs and distribution of responsibility with third countries.\footnote{Council of the European Union, “Main elements of the Irish Presidency programme on immigration, frontiers and asylum”, 4.}

Whereas the Commission and the Council addressed solutions to counterbalance the asylum-seekers movement, the Parliament’s discourse has been constructed around two aspects.

Firstly, it promoted a humanitarianism-oriented approach by inviting the Commission and the Council to work on a series of measures to ameliorate the conditions for asylum-seekers. This approach based on benevolence towards asylum-seekers is further on supported by the Parliament’s recommendations to expedite the operations for granting asylum, “which would make it easier to deal with unjustified applications and thus streamline formalities for those which actually meet the requirements for the granting of asylum.”\footnote{Ibid.} Furthermore, the EP has been advocating for well-established protected entry procedures, which would dwell on the possibility for asylum-seekers to submit an application for international protection. The EP brought also into discussion the difficult conditions the asylum-seekers are forced to live in the refugee camps.\footnote{European Parliament, Session document, Joint motion for a resolution, 15 December 2003.} Ultimately, the EP required the Council to work on the amelioration of the conditions for returns of refugees and asylum seekers, by providing “safe, dignified and sustainable voluntary returns.”\footnote{European Parliament, “Single procedure for the European Asylum System”, European Parliament resolution on asylum procedure and protection in regions of origin, 2004/2121 (INI).}

Secondly, throughout the Tampere Program, the Parliament signaled that the first stage of the common asylum policy presents some architectural drawbacks, which could endanger the EU’s humanitarian culture. The EP’s rhetoric has encouraged the EU to support the countries of origin, by acting according to the UNHCR Convention Plus Initiative.\footnote{European Parliament, Session document, Joint motion for a resolution, 15 December 2003.} What is more, the EP stated that it is the EU’s accountability to create a clear asylum and immigration policy, so as “the asylum seekers and immigrants are entitled to know where they stand in Europe.”\footnote{European Parliament, Sitting of Wednesday, 17 November 2004.} Taking into account the terrorist attacks in the US on 11 September 2001 and in Madrid, on 11 March 2004, the EP urged the Council to find a satisfactory compromise between preserving the fundamental
freedoms and enforcing the law.\textsuperscript{96}

On the one hand, at the rhetorical level, the research points out that the Parliament has been the moral voice of the EU. On the other hand, some scholars have pointed out that the EP has been borrowing some of the elements used in the Commission and Council’s speeches, leaning towards a more securitizing view.\textsuperscript{97} This argument is further on approved by Guild and al., who have pointed out that the Global Approach to Migration and Mobility has established a new discourse in the EU’s asylum policy meant to present in a “fashionable manner” the solutions for the EU’s security threats.\textsuperscript{98} This has been part of the comprehensive approach on migration.\textsuperscript{99} But the question to be answered is whether there has been a switch from a humanitarian discourse towards a restrictive securitizing discourse in the case of the EP? Nevertheless, this would not be unanticipated since Bigo states that a humanitarian response is a by-product of the securitizing process. The EP’s discourse has shown that security is implied within discussions of humanitarian assistance, fundamental rights and protection. Additionally, the EP’s concern regarding the urgent and basic needs of the asylum-seekers represents an innovative approach of humanitarianism, insisting on the “immediate needs of the refugees” and avoiding searching a long-term solution.\textsuperscript{100}

The other elements that hinted the EP’s securitarian approach were the EP’s support of the Council’s “adoption of a comprehensive plan to combat illegal immigration and of a plan on the management of external borders.”\textsuperscript{101} Furthermore, the EP advocated the EU’s duty to set up a viable framework so as to accelerate the collaboration on the safeguard of EU’s external borders, notably in advance of the “big bang” enlargement.\textsuperscript{102} This displayed the “guarding” and “securing” position the EP ultimately undertook, after the 2004 enlargement.

The last element we have pinpointed as defining the EU’s discourse in relation to the notion of asylum, but also in relation to the establishment of the CEAS is the regular

\textsuperscript{96} European Parliament, “Resolution on the outcome of the European Council meeting held in Brussels on 4-5 November 2004”.
\textsuperscript{97} Van Dijck, “Is the EU policy on illegal immigration securitized? Yes of course! A study into the dynamics of institutionalised securitization”.
\textsuperscript{100} Gil Loescher, and Laila Monahan, Refugees and international relations, New ed. (Oxford: Clarendon, 1990), 381.
\textsuperscript{101} European Parliament, Session document, Joint motion for a resolution, 13 January 2003.
use of the catchword “immigration”, without providing the context. UNHCR gave voice to the EU’s mistake of failing to differentiate between irregular migrants and asylum-seekers, with the EU making use of a wide range of control and prevention methods to dissuade immigrants from reaching the EU, but without implementing different tools for different types of migration. Essentially, the research showed that the EU uses specific terms when it serves its own interests. The repetitive inclusion of irregular migrants in the discourse on asylum-seekers represents a strategic move in order to legitimize border controls. Besides, irregular immigration appears intermittently in relation to the misuse of the asylum system, given the high numbers of unfounded asylum claims. Subsequently, the Council stated that “the area of freedom, security and justice is open to those who, forced by circumstances, legitimately seek protection in the European Union”. Furthermore, the Commission endorsed this view, saying “the asylum and international protection system can come under serious threat if it is used for other purposes or repeatedly misused, notably by networks of smugglers in human beings”. Thus, the Commission articulated that the EU should aim to discourage economic migrants from misusing the asylum system, which would decrease the number of groundless asylum claims. This is actually how the Directive on minimum standards for granting and withdrawing refugee status came to life, four years later, as a way to stop migrants from exploiting the asylum system: 

(…) these channels may therefore help in deterring economic migrants from using the asylum route as a way to get entry in the EU, knowing their chances of receiving legal status would be minimal or even non-existent. The correlation between irregular migrants and asylum-seekers can have long term consequences on how the people seeking protection will be further on perceived in their host societies. Since most of the times, irregular immigration has been framed in the EU in relation to terrorism, crime and unemployment, this correlation will also link asylum-seekers to these matters.

1.3. Securitizing technologies

The previous section of the analysis focusing on the discourses emerging during the Tampere Program revealed a rather incomplete approach to asylum, given the existence of opposing elements. On the one hand, there is an inclination towards the principles stated in the Geneva Convention and the EU’s long humanitarian history. On the other hand, the free movement of the EU nationals must occur in secure and safe conditions, which can be preserved only through ensuring an increased control of EU’s external borders.

The Tampere Program emphasized the security dimension, giving priority to the relation between security and protection in the EU. By security, the Council referred to the EU’s current status quo, which represented the EU as a peaceful environment without any threats. Nonetheless, the idea of protection, which implied the area of freedom, security and justice being protected from any harm, was underlined by the EU’s combative approach, using words such as “fight against”. Furthermore, Tampere called for a better management of migration flows, which were possible to acquire only through “development” and “close cooperation” with the countries of origin, and for “the prevention of all forms of trafficking in human beings”.

Reinforcing the control of the EU’s borders has been accomplished on one side, at the practice level, by employing several securitizing technologies, and on the other side, by focusing on security-oriented governance outside the EU’s territory. Whereas the Council has been a promoter of security-oriented systems, disguised in its rhetoric as instruments meant to ensure a better management of migration flows, the Commission endorsed the external governance, masked in its discourse as a means to strengthen cooperation with third-countries.

In the case of the Council, the Presidency Conclusions of the Thessaloniki European Council, followed by the Irish Presidency Conclusions, showed support for the expansion of several so called self-governing bodies and agencies meant to control the member states territories and the EU’s borders. The Thessaloniki presidency

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110 Tampere European Council 15 And 16 October 1999, Presidency conclusions.
111 Ibid.
112 Ibid.
113 Ibid.
114 Van Dijck, Is the EU policy on illegal immigration securitized? Yes of course! A study into the
proposed the enhancement of border controls and to further the implementation of
government technologies, such as the Visa Information System [VIS] and the Schengen
Information System [SIS]. Furthermore, the Thessaloniki European Council insisted on
the importance of a mutual system of exchanging information between the MS, inviting
the Commission to come up with a proposal in this sense.\textsuperscript{115} The EU necessitated a new
approach to migration in the light of new needs, such as “registration and capturing of
biometric identifiers of asylum seekers at the earliest point of time.”\textsuperscript{116} Despite the lack
of the security grammar, which should be ingrained in the speech act, the analysis
showed, nonetheless, a rise in the use of securitizing technologies. These systems used
as securitizing practices exposed the fact that the absence of a securitarian discourse
does not imply that the asylum issue has not been securitized, but that securitization has
become deep-seated in the frequent EU understanding on how to cope with the asylum
demands.

The Presidency of the Council of the European Union held by Ireland in 2004
focused on “progressing practical co-operation between Member States border
authorities and on implementing joint operations at the external borders.”\textsuperscript{117} Several
elements such as the future of the VIS, its architecture, functionalities, financial
components and biometric identifiers were further on debated.\textsuperscript{118} The implementation of
securitizing technologies coupled with the support of surveillance became a commonly
accepted measure, despite the fact that no existential threat had been introduced, when
referring to the asylum-seekers. Although, it is clear why such mechanisms are
employed since surveillance systems are used in order to ensure protection from
different types of threats. These securitizing technologies underline the existence of a
struggle when it comes to the growing number of refugees.

Therefore, the Council’s discourse has acquired a bias towards the implementation
of several securitizing technologies, despite the fact that our analysis did not reveal the
presence of a securitizing speech. The scrutiny of the documents exposed that, in this
precise case, the securitization did not follow the gradual path of securitization
displayed by Buzan. We have not identified all the elements constituting the “security
grammar”. But, it is interesting to note that whereas the Council left out the first part of

dynamics of institutionalised securitization”, 19.
\textsuperscript{115} Council of the European Union, Programme of the Greek Presidency in the fields of Immigration,
Border Control and Asylum, Brussels, 24 January 2003, 3.
\textsuperscript{116} Ibid, 4.
\textsuperscript{117} Ibid.
\textsuperscript{118} Ibid, 5.
the securitization process, meaning that there was no proof of a security-oriented discourse towards refugees, it did introduce measures to offset the threats. Moreover, the resort to technological systems appears to be the final resolution to the increasing number of asylum-seekers and irregular migrants, who misuse the asylum system.\footnote{Elspeth Guild, Sergio Carrera and Thierry Balzacq, “The Changing Dynamics of Security in an Enlarged European Union”, Research Paper No. 12, October 2008, CEPS Challenge Programme, 9.}

This section exposed that the area of freedom, security and justice has been “driven by robust confidence in security technology”.\footnote{Ibid.} The surveillance oriented technological systems used to better monitor immigration has been the main answer given by the EU to the security threats, thus making these securitizing systems a joined part of the area. The large-scale EU databases and the biometric systems are advancing the assumption that “technology is the most plausible tool to face any imagined insecurity, without duly considering that it could engender more insecurity in terms of data protection, fundamental rights and liberty.”\footnote{Ibid.} The biometric technology enclosed in Eurodac serves as proof for the management logic, which has been framing the JHA institutional field. Used to identify irregular migrants and asylum-seekers, “EURODAC also reproduced the security logic by constructing the identity of an ‘illegal’ immigrant, and thus an unwanted and dangerous subject.”\footnote{Van Dijck, “Is the EU policy on illegal immigration securitized? Yes of course! A study into the dynamics of institutionalised securitization”, 13.} Thus, the immigrant’s clandestineness is generated by the government technology, as Bigo proclaims.\footnote{Bigo, “Security and Immigration: Toward a Critique of the Governmentality of Unease”, 84.} Moreover, Eurodac confirmed that EU failed to distinguish between irregular migrants and asylum-seekers. The unanswered question remains the same that has been prevailing in our analysis, related to the conflation between irregular migrants and asylum seekers. Since the irregular migrants have been portrayed as a threat, are asylum-seekers also a threat? This struggle of defining several types of migrants is similar to the competing discourses between those who perceive migration through purely economic lenses and those who promote a more humanitarian discourse. Even if the scrutinized documents did not bring to light the existence of a threat or of a referent object, which is threatened, these types of agencies are designed according to a security logic, therefore their main objective is to guard the EU from any sort of danger, even if, at times, the threat has been indirectly exposed.
1.4. Conclusion

The first part of the analysis covered the Tampere Program so to see if we can identify the prevalence of a securitizing frame of the asylum policy. This segment of our examination covered dozens of documents from the Commission, the Council and the Parliament and we focused on the relation between discursive and non-discursive practices, as part of the securitization process.

At the discursive level, asylum has not been conceptualized as a security threat, in a direct manner. Nonetheless, asylum-seekers and refugees have been introduced as risks to area of freedom, security and justice, given the constant correlation between asylum and irregular immigration. For a long time, the EU has introduced irregular immigration in pejorative terms, using expressions such as “fight against” and framing it as danger to the socio-economic stability in the EU.\textsuperscript{124} Thus, the interrelationship between the illegal immigrant and the asylum-seeker can redefine the way the latter is perceived. The referent object has been also heavily implied, with repetitive references to “us” versus “them”, where “us” is the referent object. As Buzan et al. indicate in the case of societal security, this antagonism points out the risk the asylum-seekers pose to the European shared values and principles.\textsuperscript{125} Furthermore, the audience, represented by the EU institutions, shared each other’s view on how asylum has been formulated across the institutions, with the exception of the Parliament, who has kept a more humanitarian oriented approach. As to the last element of the security grammar, we have identified two measures to counterbalance the asylum-seekers movement. First, the EU attempts to prevent asylum-seekers, together with irregular immigrants to reach the EU’s territory, through external governance. Perceived as a security risk by endangering the EU’s stability and security, asylum-seekers are restrained from entering the EU through a series of restrictive legislative instruments and partnerships with the third-countries.\textsuperscript{126} Secondly, we detected a strong emphasis on border controls coupled with the endorsement for the use of biometric identifiers and fingerprinting. The technological response, seen through the advancement of VIS, SIS and Eurodac, is meant to preserve the EU’s security.

It is interesting to observe, nonetheless, that essentially the EU has not

\textsuperscript{125} Barry Buzan et al., \textit{Security – A new framework for analysis}, 121-123.
\textsuperscript{126} Michella Ceccorulli, “Migration as a security threat: internal and external dynamics in the European Union”.

constructed at the discursive level, the asylum-seekers in pejorative terms. Certainly, this has happened through the recurrent analogy with the illegal immigrants. The threat and referent object are only implied and to some extent, masked, given the constant implications to Geneva Convention and the EU’s humanitarian values. Thus this “disguised” securitarian discourse has been identified only because we took into consideration the non-discursive practices, which indicated that ultimately the asylum-seeker represents a threat to the EU’s societal security.
Chapter 2. The Hague Program

The previous chapter has revealed that the Tampere Program has been marked by a discursive incongruity, leading us to consider that securitization has been standardized in the EU’s approach to immigration and asylum. The analysis showed that discursive patterns have been developed throughout the program, since the EU actors have been repeatedly employing them. All the EU actors have constantly emphasized the “humanitarian tradition of the EU.” Yet, the regularity of this discursive element has been shadowed by the EU’s inclination towards the use of security-oriented measures. Hence, the substructure of the asylum policy has been constructed under a securitization bias, before the actual inflow of Iraqi asylum-seekers started. In what follows, we will advance our analysis so to see whether the same discursive archetypes have prevailed during the Hague Program, marked by the beginning of the asylum-seekers inflow, or if we will identify an increase of securitizing moves.

2.1. Discursive patterns

Throughout the Hague Program, the EU institutions have shaped their discourse around the establishment of the second phase of the CEAS and the creation of a uniform status valid throughout the EU. By the end of the Tampere Program, there were still wide differences between national jurisprudences, mainly because of the lack of compliance from the MS. Moreover, the beginning of the second phase of CEAS saw also an increasing violence across Iraq, forcing millions to leave their homes in search for protection. Several reports from UNHCR drew attention on the fact that “the international community is facing a much larger and more complex humanitarian crisis than the one aid agencies planned for.” Therefore, with over four million displaced Iraqis around the world, the EU was about to encounter an inflow of asylum seekers. This was the first test encountered by the EU, while already struggling to set up the asylum policy.

128 UNCHR, Statistics on Displaced Iraqis around the World, April 2007, Global overview.
UNHCR, Update on the Iraq Situation, November 2006.
On the one hand, the aim of the Hague Program has been to carry on the development of the asylum policy achieved in its first phase, through the legal instruments adopted by the EU, which have led to the initial harmonization of the national asylum policies. Furthermore, a rhetoric based on humanitarianism prevailed during the Hague Program while emphasizing that asylum-seekers should have access to international protection under fair and impartial conditions across all the MS. But on the other hand, the EU’s discourse during the Hague Program has been shaped around the conflicting relation between inclusion, defined by the “realization of human rights” and exclusion, defined by the right of nation states to close their borders to the “other”. Whereas the restrictive measures adopted in the area of immigration and asylum are the result of a securitization act, they are also the result of the unwillingness of national governments to bring to the table a multilateral approach to migration. As we saw in the previous chapter, the EU’s response at the policy and legislative levels got sidetracked, due to a degree of aversion from the national level. Noll even asserted that the low degree of harmonization achieved so far occurred with a minimum effort and cooperation from the MS, because the EU has been struggling between “universalism” and “particularism”. The Commission has also asserted that despite working on several legislative instruments since 1999, the EU still lacks the same common vision on asylum and immigration matters, blaming the influence of national interests.

The above-mentioned contradictory relation between the EU’s moral obligation and its pragmatism, translated through the policies, finds its roots in the EU’s comprehensive approach to immigration. The comprehensive approach to immigration has been a more refined version of the EU’s “managementslogic” since the main objective of the approach was to tighten border control through external governance. But, at the same time, it promoted partnerships with third countries, creation of legal migration channels for asylum-seekers and the establishment of a common integration

130 Noll, Negotiating Asylum, the EU Acquis, Extraterritorial Asylum and the Common Market of Deflection.
131 Ibid.
133 Van Dijck, “Is the EU policy on illegal immigration securitized? Yes of course! A study into the dynamics of institutionalised securitization”, 28.
Moreover, the Parliament’s rhetoric has been built around the comprehensive approach to immigration. The EP’s rhetoric has been based on a broader social perspective and human rights framework, stating repeatedly that the EU’s priority in terms of asylum and immigration is connected to “the human drama”, “the very large migration flows of the last few years” and “the worryingly large number of minors among recent arrivals.”

By pointing out that “increased migration is a global phenomenon with numerous causes and effects and needs a balanced, global and coherent approach”, the Parliament condemned the humanitarian costs and brought to the spotlight the loss of the thousand of immigrants’ lives in their attempt to reach Europe. By showing moral sentiments of compassion and solidarity, the EP continued to employ the same humanitarian discourse throughout the Hague Program. Primarily, the EP’s rhetoric signaled the EU’s moral duty and necessity to carry on further legislative development in the asylum area to offer protection to those in need:

No one can remain indifferent to the difficulties and the humanitarian crisis presented at our borders, particularly in southern Europe, or to the huge influx of migrants and asylum seekers. (...) They are people and they deserve a civilized response.

The examination of several documents from the EP revealed the future of the asylum policy has been addressed as a humanitarian concern, and not as an explicitly stated security challenge.

Prevention has been universally employed by all the institutions involved in the advancement of the asylum policy, masked as a means to assist the countries of origin where the migration flows emanate from, but also the transit countries. Nonetheless, the regional partnerships between the EU and the third countries and the transit countries did not emerge as a sign of multilateralism, but as a sign of security-oriented measures. Moreover the harmonization of common asylum standards translates as a more efficient arrangement of security practices, which allow the states to oppose more powerfully a threat, by means of cooperation. As to the assistance of the transit countries, this

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134 Ibid, 28.
136 Ibid.
allowed the EU to ensure a better way of preventing migrants and asylum-seekers from entering the EU. Having said that, prevention has become part of EU’s securitization process, being actually the measure to offset the threats, represented by the asylum-seekers. Deterrence, as a response to high numbers of asylum-seekers, is the point of departure for the adoption of restrictive policies and the reinforced border controls, having been ratified by all the EU institutions. On that account, they have regulated restriction, making it a legitimate move in the context of the asylum policy.

Like previously mentioned, all the EU institutions agreed with the comprehensive approach to migration. The Parliament endorsed a stronger regional cooperation, which would allow the EU to better manage its borders.\textsuperscript{140} By advocating a strong alliance with third countries the EP has actually tempted to balance the EU’s internal and external security nexus. The EP’s multilateral approach was nonetheless just a method to hide the EU’s external governance, being part of its securitization process. Moreover, the Commission and the Council, through its European Security Strategy, have stated that “the internal and external aspects of security are indissolubly linked”.\textsuperscript{141}

Fundamentally, achieving cooperation at the European level, both internally and externally, is just the result of a political practice of securitization. Ceccorulli has asserted that tackling migration through internal and external collaboration is proof that migration has been perceived as a security concern in the EU, showing also a degree of coherence at the policy level.\textsuperscript{142}

The Commission has also pushed forward the need to boost cooperation and support with third countries, but it did so by employing a utilitarian discourse. Positioning itself as a proponent of a well-managed migration system, the Commission recommended the identification of the pull and push factors in the migration process by both, the EU and the third countries, so adequate solutions would be materialized.\textsuperscript{143} The preventive approach has been used as a means to reinforce the control of the EU’s borders. Nonetheless, the Commission made clear that these reinforcement mechanisms

\textsuperscript{140} European Parliament, Joint Motion for a Resolution, 29 September 2006.
would be implemented by preserving “a truly integrated border management, while ensuring easy access for bona fide travellers and persons in need of protection, by keeping Europe open to the world.” Nonetheless, the Commission did tackle the idea of security by stating that “managing immigration effectively means addressing also different issues linked to the security of our societies and of immigrants' themselves.” But again the concept of security is used without referring directly to the threatening element. Thus, the Commission’s rhetoric remains highly inconsistent. On one side, it states that the EU has to guarantee “a respect for fundamental rights of all migrants.” But on the other side, it proposes restrictive measures translated through border control ensured by security-oriented agencies to restrain the irregular migrants, but not the asylum-seekers. This light contrast between the “bad migrants” and the “good migrants” remains a policy incoherence, which the EU has failed to settle since the late 1990s.

Likewise, the EP also asserted that securing the external borders represents a counteraction to human trafficking, but not a way to stop asylum-seekers to enter the EU. A gradual switch has been perceived in the EU’s discourse, given that the EU began to accentuate the difference between irregular immigrants and asylum seekers, the EP pointing out the need for a better organization so to ensure that asylum-seekers have access to information on the criteria for obtaining asylum. These findings are particularly interesting in the context of an increase of Iraqi’s asylum claims. Essentially, the EU starts correcting and amending the double-entendre that has monopolized the immigration and asylum policy, mainly because some policy papers did not establish clearly their target, meaning irregular migrants or asylum-seekers.

Another prevailing element we have distinguished in our study is related to the fairness, impartiality and equity of the common asylum policy. The Commission, the Council and the Parliament have dedicated significant attention on the equitable allocation of asylum demands between the member states. The Commission has also highlighted the MS need to base their asylum mechanisms and instruments on solidarity and on a better coordination of EU’s migration policies. Denouncing the lack of interest from the MS, a report from the Commission indicated that further legislative development on the relocation of those in need of international protection is

144 Ibid.
146 Ibid.
147 Ibid.
unattainable. On a less optimistic note than its earlier version, the end of the Hague Program brought several amendments and revisions to the first-phase instruments adopted during the Tampere Program. Moreover, with the increase of Iraqi asylum-seekers, a perpetual discourse on responsibility and accountability between the MS started to dominate the EU scenery. The amendments proposed by the Commission focused on the persons seeking subsidiary protection, on guaranteeing greater equality when analyzing the asylum demands in different MS and on ensuring that vulnerable persons and victims of torture are provided acceptable care. The supranational discourse emphasized the national governments’ opposition towards employing the Qualification Directive due to a discordant assessment of the security situation in Iraq. Thus, tackling the uneven distribution of asylum applications became a priority for the Commission. To a certain extent, the Qualification Directive, which was supposed to have a significant effect on the recognition rates, failed to do so as a result of member states’ reluctance to fully employ the directive.

2.2. Power struggle between the securitizing actors

The previous section, focusing on the discursive patterns, has showed that the concept of asylum has not been constructed as a threat or a risk to the EU’s societal security. Nonetheless, the analysis revealed a lack of effectiveness of the procedures, an aversion from the national level to implement all the directives and regulations and a diverging understanding from the national governments of the fundamental rights anchored in the European Convention on Human Rights. Although this research has been taking into account only the supranational level, the member states cannot be overlooked, given their central role in the decision-making process. Certainly, the Council represents their common voice.

151 Ibid.
153 Christine Marie Fandrich, “A comparative study on the asylum landscapes within the EU for Iraqis after the 2003 Iraq War and Syrians after the 2011 Syrian Civil War”, Robert Schuman Centre for Advanced Studies, Migration Policy Centre, 2013, 4.
We have earlier stated that the unwillingness to implement the asylum *acquis* emerging from the national level has been deeply criticized by the Commission and the Parliament. The directives and regulations constituting the asylum *acquis* are the only desecuritizing measures the EU has taken in the area of asylum, providing legal means to accede protection. Though, it has been pointed out that the Directive on Temporary Protection weakened the Geneva Convention refugee status by undermining access to family reunion, employment and legal status after termination of the regime.\(^155\) Nevertheless, the national governments are not fully respecting the integration of these legislative instruments, leading us to conclude that they advocate for security-oriented measures based on prevention and restriction.

Furthermore, the analysis displayed that the EU institutions do not have the same stance on the development of the asylum policy, resulting in competing narratives. Additionally, the MS have decelerated the advancement of the CEAS. Therefore, the second part of this chapter investigates the contesting accounts, which emerged from the institutions. This further step in our analysis will allow us to get a comprehensive understanding of the possible securitization of asylum-seekers by uncovering the political interplay and the argumentative reasoning behind the discursive acts, given that we aim to look beyond the speech acts.\(^156\)

Other scholars have been pointing out that the restrictive policies and border controls are the result of migration being considered a “strategic matter” in the EU, impacting the security and well being of the EU.\(^157\) Strong evidence has been found in this sense, showing that the persistent emphasis put on the external dimension of the immigration and asylum policy is a sign of securitization. The EP, a long promoter of a common asylum policy seen as a way to ensure the EU’s voice in response to the refugee inflow, has accentuated that the security side has to fall under the Common Foreign and Security Policy’s umbrella. But if immigration and asylum area is transferred to the EU’s foreign policy area, then this fact clearly demonstrates that asylum became strongly securitized.\(^158\)

During the second phase of the asylum policy, the Parliament has grasped the


\(^{156}\) Bigo, “Security and Immigration: Toward a Critique of the Governmentality of Unease”.

\(^{157}\) Ceccorulli, “Migration as a security threat: internal and external dynamics in the European Union”, 10.

signification of a comprehensive cross-pillar and multi-level approach towards migration, whereas the national governments tended to turn aside from the legal binding provisions imposed by the EU. A joint motion from the Parliament dating from 2006, stated: “We therefore want to see European solidarity strengthened. We ask that Europe share the burdens and responsibilities of its immigration policy.”

But the EP’s discourse comes at a time of slow legislative development in the area of asylum, when the Commission and the Council have been mostly focused on endorsing the amendment of the already existing asylum directives, calling for faster procedures for asylum claims and keeping their neighbors under careful observation so to stop the migratory flows from entering the EU.

The Hague Program had a slower development in the area of asylum mainly because the emergence of antagonistic views from the MS in this area. It is the Parliament that pointed out that each MS has a different approach on migration, ranging from an economic to a humanitarian approach based on their national interest. Normally, this should not have been a challenge for the policy-making in the area of immigration and asylum, since the Tampere European Council had set the basis for the community method in this area. But the EP’s discontentment revealed that the majority of the decisions were intergovernmental, explaining also the national governments’ aversion towards the approximation of their national legislations.

Nonetheless, we identified a new element in the EP’s discourse related to the link between immigration and asylum and the fight against terrorism and organized crime. Despite being present on the EU’s agenda since the beginning of the Tampere Program, the Parliament had avoided before to make a straightforward connection between immigration and terrorism. But given the attacks in Madrid, followed by those in London, the EP gradually changed its discourse during the Hague Program. At this point, the EP’s rhetoric is constituted by adversarial elements. On the one hand, the members of the Parliament have been blaming the national governments for slowing down the achievement of the second phase of the asylum policy. But on the other hand, they started linking migration to terrorism and organized crime in a direct manner, at the discursive level. However, the members of the EP have always showed support towards

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159 Ceccorulli, “Migration as a security threat: internal and external dynamics in the European Union”, 12.
161 Ibid.
a permissive and open asylum policy to those who are in need of international protection, advocating even for information campaigns on the criteria to obtain protection status in the countries of origin.

An unexpected element, which has not been previously identified in the EP’s discourse, was linked to the EU’s concerns as to the high numbers of asylum seekers coming to Europe as “spontaneous” asylum seekers, and not following an offer of resettlement. But except the growing number of asylum applications, the EP showed great consideration as to the expanding inequity of the distribution of asylum applicants among the member states.

The Council asked the Commission to advance a legislative proposal on the long-term residential status to refugees and on the subsidiary protection status, which on long term would lead to a further harmonization of national policies on asylum. But the Council did not agree on the implementation of this directive in 2008, being shelved for further discussion until 2011. The coordination of national jurisprudences suggests the EU’s response to the increasing migration, which being indirectly presented as a threat, has to be confronted unanimously. Moreover, it has been pointed out that nation states are more likely to cooperate on issues they consider part of the security continuum, since some member states might not be able to handle the threat based on their national legislations.

The Commission’s view on asylum did not distance itself from the EP’s stance. Its tour de force on the asylum matter came to light in 2007 when the Commission issued a Green Paper on the Future of the European Asylum System, grounded on the 2005 Hague Program Action Plan. The aim of this paper was to create a level playing field for protection principles across the EU. The Green Paper stated that the area of freedom, security and justice has to become:

(…) a single protection area for refugees, based on the full and inclusive application of the Geneva Convention and on the common humanitarian values shared by all Member States.

Primarily, the commission indicated the fact that the EU did not have clear objectives

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165 Council of the European Union, EU long term residents’ directive extended to refugees and other beneficiaries of international protection, Luxembourg, 11 April 2011.
and priorities, leading to further “policy incongruence”. The timing of the paper is also important since the enlargement processes from 2004 and 2007 enhanced the possibility of further fragmentation instead of harmonization between national asylum systems.

Surprisingly, the Green Paper emphasized not only the challenges faced by the EU’s precarious asylum system, but also the challenges faced by those seeking protection, asserting that the second phase of the CEAS should bring to light “an integrated, comprehensive approach to asylum”, by straightening out “all aspects of the asylum process”. Overall, the Commission’s Green Paper exposed a new facet on the future of the asylum policy, one that showed interest towards effective ways of inclusion of the asylum-seekers through solidarity and shared responsibility. The paper stated that it is crucial to develop the procedures in the asylum area by making them more accessible to the asylum-seekers. Moreover, the Commission emphasized once again the need for quicker processes of assessment of the asylum claims, by bringing together all the stakeholders involved in this process.

The Commission asserted the importance of supporting national governments by supplying competent instruments so they can efficiently handle large numbers of asylum applications. Throughout the analysis, the Commission did not make proof of a security-oriented stance, in a direct way. Moreover, it pointed out the absence of a unanimous approach on asylum in the EU policy-making sphere, mentioning that the lack of a legislative agreement in the asylum area has minimized the chances of any further legal procedures to allow the asylum seekers to enter the EU. Nevertheless, including the migration related matters into the foreign relations area by promoting additional cooperation with third countries, showed that the future of the asylum policy revolves around a securitarian mindset. In essence, the external dimension of the asylum has been strongly emphasized in the Commission’s Green Paper, proving that the reasoning behind this type of approach prioritizes the EU’s internal security.

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169 Noll, Negotiating Asylum, the EU Acquis, Extraterritorial Asylum and the Common Market of Deflection.
172 Ibid.
order to attain long-term security, a reliable way of protecting oneself from threatening neighbors is to befriend them.\textsuperscript{174}

As we have previously mentioned, throughout the Hague Program, the asylum acquis has been subjected to a scrutiny by the EU institutions, promoting several amendments. By focusing on the amendment of the already established instrument, the Council avoided to work on creating legal means to accession to the EU for the asylum-seekers. The Asylum Procedures Directives, providing common standards of safeguards, has been reassessed by the Commission, which indicated that this is not a “standard procedure” and its adjustability to the national modus operandi has a detrimental impact on the acceleration of the procedures, border procedures and unacceptable applications. The Commission called attention “to effective access to the possibility to request asylum and thus the access to international protection in the EU”,\textsuperscript{175} suggesting that there is nonetheless a disposition to create juridical mechanisms allowing asylum-seekers to claim protection. The fundamental message coming from the Commission regarded a better coordination of the national legislative systems in the area of asylum coupled with clear provisions from the supranational level, enhancing the effectiveness of the CEAS.

Issues such as further law approximation, effectiveness of access to the asylum procedure, regulation of the asylum process, existing procedural devices, the design of a single asylum procedure and the implementation of a mechanism for joint processing of asylum applications were brought under discussion by the Commission, to be further on taken into consideration by the Council and the Parliament.\textsuperscript{176} Furthermore, the Commission suggested additional harmonization through the approximation of the benefits and rights linked to the protection status – residence permits, social welfare and healthcare, education and employment. But at the same time, the Commission approved the Qualification Directive, enacting common grounds to grant international protection. Nonetheless, as showed by other scholars, this legislative instrument has been shaped according to a securitarian approach given that the exclusion provisions were more extensive than the ones provided by the Geneva Convention.\textsuperscript{177} The Commission also


\textsuperscript{176} Ibid.

reviewed the Reception Conditions Directive. The MS had implemented this directive divergently, revealing wide differences as to the access of asylum-seekers to healthcare and labor market.\textsuperscript{178} In relation to both directives, the Commission stressed the fact that their degree of flexibility has been slowing the harmonization of national asylum systems.

On the other hand, the Parliament has also criticized the Council for adopting the Directive on Minimum standards on procedures for granting and withdrawing refugee status, containing a minimum common list of third countries considered as safe countries of origin. What the Parliament disapproved with was the “confusion” created by the inclusion of the safe countries list, indicating that the inclusion of a country on the list should not automatically lead to a refusal of an asylum application, but that according to the Geneva Convention, the applications would be individually assessed.\textsuperscript{179} The lack of agreement between the institutions on the appliance of the directive exposed on the one side, the incoherence of the directive and on the other side, the contrasting views between the European actors. But the Parliament’s disagreement emerged in the context of establishing the final framework of the CEAS encompassing adequate access to protection across the EU. Moreover, the EP also called attention to the fact that if the procedures for temporary and subsidiary protection are established on the minimum standards and on lowest common denominator, then “asylum shopping” will remain a problem.

Generally, behind the curtain of the policy-making in the asylum area, several opposing narratives have configured the securitization of the asylum policy, the main difference consisting of the sphere of the policy the EU actors wanted to securitize. Furthermore, the discursive analysis disclosed that these conflicting accounts could derive from the same actor, given the struggle between humanitarianism and endorsement for restrictive measures.

On the one hand, this judgment is being proven by the Commission, which has the right of initiative and the competence to introduce new laws to the Council and the Parliament. Essentially, the Commission, following its human rights oriented discourse, could actually trigger a strategy of desecuritization of the asylum policy. Nonetheless, this has not happened and despite its humanitarian rhetoric, it supported the use of


\textsuperscript{179} European Parliament, Resolution on Asylum: practical cooperation, quality of decision-making in the common European asylum system, 21 June 2007.
securitizing technologies and prohibitive measures. The same happened with the Commission’s Green Paper, which paved the way for the future of the CEAS, by taking into account further approximation of national procedures and regulations by establishing new common ground rules in the asylum *acquis*.\(^{180}\) The high degree of supplementary harmonization sought by the Commission is strongly underlined by the fact that the Commission suggested to involve a whole range of stakeholders from several areas such as administrative, legal, linguistic, health, education and culture. Nonetheless, this contradicts the Commission’s support for the restrictive and preventive measures.

On the other hand, the contesting narratives occurred between the Council and the Parliament, with the latter denouncing the adoption of several directives of the asylum *acquis*. Though, at this point, it is hard to know whether the Parliament criticized the enactment of the directive on the minimum standards on the grounds of the possible infringement of the rights included in the Geneva Convention or simply because the directive was adopted without any consultation from the Parliament. As to the Council, given that it has been the main legislator, sharing the legislative power with the Parliament after the Lisbon Treaty, we did not find any discursive disapproval towards the Commission or the Parliament.

### 2.3. Securitizing technologies

Despite the absence of securitization in the EU’s political rhetoric, the EU’s usage of several surveillance technologies showed a different security fluctuation at the practice level. Other scholars have been pointing out that the control-oriented instruments such as databases offering information on foreign nationals and airlines passengers are meant to strengthen surveillance of potential terrorists, these restraining instruments not being an attempt at policy migration securitization.\(^{181}\) Nonetheless, the main reason the last section of this chapter brings into light the EU’s securitizing practices in the area of immigration and asylum is mainly because our analysis revealed a radical deviation from the human rights based discourse to the use of several security systems meant to protect the EU’s territory and control the migration flows. Additionally, some of these

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\(^{181}\) Boswell, “Migration control in Europe after 9/11: Explaining the absence of securitization”, 597.
security-oriented technologies are aimed at managing the increasing numbers of asylum-seekers coming to EU. Our standpoint is that the exclusive analysis of the speech acts is not sufficient in order to expose the securitization of the asylum policy. As a proof, the lack of any direct and explicit securitizing moves from the EU actors is contradicted by EU’s employment of securitizing technologies, already approved through consensual decision-making.

As we have previously seen, the Parliament’s discourse has been shaped around the idea of unity and burden sharing across the EU. The Commission has also supported this idea. Subsequently, the Dublin Regulation, which has been designed to nominate the country in charge of evaluating an asylum claim, has been subject to several changes throughout the Tampere and Hague Programs. The dispute of the Dublin Regulation has been related to the fact that the responsibility of analyzing an asylum application falls under the responsibility of the country where the asylum-seeker first arrived. Certainly, this regulation has put a lot of pressure on the countries, which are geographically predisposed to migratory flows.\footnote{European Commission, “On the future Common European Asylum System”, Green Paper, COM (2007), 301 final, Brussels, 6 June.} Therefore, the Commission proposed an examination of the Dublin Regulation and the implementation of a system, granting a more equitable allocation of asylum applications between MS, refraining also the possibility of “asylum shopping”.\footnote{Ibid.} The revision of the Dublin II Regulation was conceived in such a way that it would add more fairness to the regulation, by removing the burden from the countries situated at borders of the EU. Essentially, the original design of the Dublin Regulation interfered with the impartial burden sharing sought by the EU.\footnote{Noll, Negotiating Asylum, the EU Acquis, Extraterritorial Asylum and the Common Market of Deflection.} Nonetheless, it is interesting to observe that these revisions were beneficial for the EU’s internal manner of operating with the asylum-seekers, but not beneficial for those seeking protection.

The Eurodac Regulation, incorporating a centralized database with fingerprints of third-country nationals or stateless persons, enhanced the use of the Dublin Regulation.\footnote{Council Regulation (EC) No 2725/2000 Of 11 December 2000 Concerning The Establishment Of 'Eurodac' For The Comparison Of Fingerprints For The Effective Application Of The Dublin Convention, Official Journal L 316 , 15/12/2000.} Subsequently, the national governments could carry out further action according to the Dublin Regulation.\footnote{European Commission, Report from the Commission to the European Parliament and the Council, On the evaluation of the Dublin system, Com (2007) 299 final, Brussels, 6 June.} From the very beginning, the Eurodac
Regulation was designed as a restrictive system for asylum-seekers, since the stored data came from both, irregular migrants and asylum seekers. The justification for the data storage on asylum-seekers was grounded on the following: “to allow each Member State to check whether an alien found illegally present on its territory has applied for asylum in another Member State.” The fact that Eurodac brought together through its usage several categories of migrants is not necessarily an unforeseen event in the EU’s immigration and asylum policy-making. Since the Tampere Program, we have observed the EU’s ambiguity in the policy-making in this area when framing policies and instruments directed to several forms of migration. This time, the Eurodac Regulation is not an exception. It is instead one of the primary instruments which constitute the CEAS and justifying its appliance represents one of the steps taken towards legitimizing prohibitive reactions of asylum-seekers.

During the Hague Program, whereas the legislative advancement in the area of asylum has been slow, the EU actors have emphasized the use of security-oriented systems. The Hague Program paid particular attention to the possibility of uniting SIS II, VIS and Eurodac in the fight against terrorism and set forth “the principle of availability”, allowing authorities in charge with internal security to get necessary information from other member states. Connecting VIS with Eurodac became a priority for the EU because they were designed as instruments of migration control and they could be useful to counteract terrorism, especially after the London bombings. But by assigning new competences to SIS, instrument involved in the fight against terrorism, asylum and terrorism were directly associated. This is further proven by the fact that Europol and Eurojust, both being agencies handling judicial cooperation in criminal and terrorist acts, had now access to all the data stored by VIS. It is worth mentioning that several documents from the EU endorsing the collaboration between the EU’s security-oriented agencies, did not undertake a securitarian position at the speech level. Essentially, despite of the fact the EU incorporated these agencies into the working area of the CEAS, our analysis did not unveil any securitizing elements such as the image of the asylum-seeker being presented as a threat.

187 Ibid.
188 Boswell, “Migration control in europe after 9/11: Explaining the absence of securitization”, 560.
A report from the Commission on the Common Immigration Policy of the EU expressed the importance of strengthening the external borders, focusing on “prevention of other safety and security – related threats”.192 The Commission has emphasized the focus on prevention and security risks, by its proposal to “fortify” the functional dimension of the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union [Frontex].

Frontex has been introduced from the very beginning as a measure to counteract the migratory wave of irregular migrants, “for the purpose of relevant policies related to surveillance and maintaining internal security”.193 But simultaneously, we have noticed an inconsistency in the Commission’s discourse since it stressed the importance of “continuing hosting refugees and persons in need of protection and further develop this humanitarian tradition”, when referring to the second phase of the asylum system.194 Among the challenges arising from different national policies in the MS there are the discrepancies in decisions to admit or deny asylum requests from applicants from the same countries of origin. Even after some legislative adjustment at the EU level, common practices remained absent among the member states and therefore they were producing conflicting results. As the Commission pointed out “this is creating secondary movements and goes against the principle of providing equal access to protection across the EU.”195

Frontex represents the conceptualization of the EU’s exceptionalism, which needed to be coherently rendered when EU was facing expanding migration flows.196 Strongly linked to the Fortress Europe and described as “an electronic walls policy”, the operations carried by Frontex are meant to stop the migratory threat.197 This is not however embedded in the speech act, but only at a procedural level. Nonetheless, the Council made clear that:

First and foremost, border management is an area of policing, where security interests have to be met while fully recognizing the commitments in the field of international protection and human rights.198

193 Ibid.
194 Ibid.
195 Ibid.
197 Didier Bigo, “Immigration controls and free movement in Europe”, International Review of the Red Cross, 91, 875 (September 2009), 589.
198 Council of the European Union, Integrated Border Management: Strategy Deliberations, 13926/06,
Frontex is also a long-term measure to handle immigration more effectively, becoming the first security agency with such abilities. This is of course relevant because as we have formerly acknowledged, long-term oriented measures are a better way to counteract security threats, in this case migration.\(^{199}\) The ambivalence of the development of the CEAS is supported on the one hand by a political discourse, described as non-securitarian, and on the other hand, by procedures and operations which are built on a securitarian logic.

The enhanced border controls are a consolidation of EU’s “sovereignty and exception” coupled with security-oriented tools meant to trace tangible frontiers protecting the EU’s area of freedom, security and justice.\(^{200}\) Computerized surveillance technologies came out as “a refinement of biopolitics”, where migrants are being less perceived as human beings, but more like “numbers.”\(^{201}\) An in-depth comprehension of the EU’s securitization mechanisms cannot occur without the contextualization of the security-oriented practices, which are often a response to external events and factors, causing actors and agents to change their frame of mind.\(^{202}\) Several empirical researches showed that it is only legitimate to consider these border controls as being very security-oriented since thousands are detained and returned to their countries of origin, whereas millions are stopped from entering EU or even seeking protection.\(^{203}\) We must distinguish between discourse and practice, since the line from politics to the policy making it is not straightforward.\(^{204}\) As a proof, our analysis showed that there is not always a causal link between the political discourse, securitarian or not, and the practice, translated through the policy-making.

\(^{201}\) Ibid.
\(^{204}\) Boswell, “Migration control in Europe after 9/11: Explaining the absence of securitization”.
2.4. Conclusion

The analysis of the Hague Program focused on three spheres: the discursive universe, the power dynamics between the main EU actors involved in the policy-making in the asylum area and the securitizing technologies. By concentrating on these three aspects, the research attempted to identify whether asylum became a security challenge during the Hague Programme.

Given the fact that a securitization process starts with a reference to a specific phenomenon as a threat, the research took into consideration the emerging discourses from the Council, the Commission and the Parliament. Therefore, based on the speech acts taken into account, the concept of asylum has not become a matter of concern for the EU’s societal security. Nonetheless, several countermeasures identified in the non-discursive sphere of the EU have been well implemented and accepted unanimously at the inter-institutional level.

Firstly, all the EU institutions have endorsed deterrence, as a mechanism to prevent asylum-seekers from endangering the EU’s stability. Moreover, given the universal support for prevention translated through security governance outside the EU’s borders, restriction has become regulated in the asylum area.

Secondly, tightening border controls emerged as a collectively approved response to the increasing numbers of asylum-seekers and refugees. Despite not being framed as security challenges at the discursive level, the technological and policy solutions suggest that asylum-seekers pose a risk to the EU’s societal security. The proper responses the EU found to counteract the risks are technologically designed to manage and control the “immigrants”. The EU reassessed Eurodac, the fingerprinting database and increased the competences of the Frontex Agency, showing that at the EU institutional level, there is a high demand for security-oriented answers to counterbalance the threats.

As previously mentioned, the research did not find any direct articulation of the asylum-seeker as a risk. But as the analysis has revealed, some of the regulations and directives adopted went beyond the asylum area, encompassing other areas such as irregular immigration and return, border controls, visas, terrorism and police cooperation. In the preceding chapter, we have asserted that EU has failed at times to discern between irregular migrants and asylum-seekers. This interconnection between the two implied that asylum could also be a security matter for the EU.
Chapter 3. Stockholm Program

The Stockholm Program came as a follow-up to the Tampere and Hague Programs, setting the priorities for the EU’s agenda from 2010 to 2014. But the Stockholm Program followed the entry into force of the Treaty of Lisbon, which marked the beginning of a renewed policy framework for the area of freedom, security and justice. The new policy framework brought by the Treaty of Lisbon was directed at the Parliament and its inclusion into the EU’s decision-making, expanding its legislative power. This is a particularly important element we will have into consideration throughout the third part of our analysis, since so far we acknowledged that the EP has been the least security-oriented actor, always employing a humanitarian discourse. Thus, it is relevant to see if with its new increased competence, the EP has kept the same humanitarian approach in the area of asylum. Other than that, the last part of the analysis delves into the last part of the development of the CEAS so to continue our chronological analysis, but also to see if its development took a securitarian turn. With the Iraqi War ending and the Syrian Civil War starting, the EU’s proximity was far from being “at peace”, these two wars resulting in more asylum-seekers and people in need of international protection.

3.1. Securitizing actors

Studying securitization involves the examination of the actors who can articulate security-related issues successfully. Moreover, the success of a securitising move is determined by the position held by the actor in cause. Therefore, the subsequent part of our analysis focuses on the governing process during the Stockholm Program, taking into account the revisions introduced by the Lisbon Treaty. Given these new institutional changes, the research attempts to identify any desecuritizing initiative coming from the institutions with increased competences. This hypothesis of a possible desecuritization is grounded on the previous empirical evidence identified at the EU’s

206 Ibid.
discursive level. Essentially, the rhetoric has now more chances to be rendered through actual policies in the area of immigration and asylum.

As we have seen in the first part of the analysis, the Tampere Program followed the Amsterdam Treaty, which transferred the competence from the national to the supranational level in the area of asylum and refugee protection. This was a step forward towards harmonizing the member states’ legislations. But after the Treaty of Lisbon, several changes impacted the area of asylum such as the increased influence of the European Court of Justice [ECJ] and the national courts’ authorisation to require preliminary rulings as to the application of international refugee law. This has been particularly important in order to ensure that the asylum acquis is equitably applied across the EU and that the MS comply with 1951 Convention. Furthermore, the Treaty of Lisbon has strengthened the EP’s role in the area of freedom, security and justice, which until then had been limited when it came to security-related issues. The EP acquired legislative influence and had been included into the decision-making process, under the commonly named “ordinary legislative procedure”.

The treaty changed the path of the area of freedom, security and justice by setting new guidelines and placing it as a priority on the policy agenda and centralizing the decision-making by eliminating the three-pillar structure. Subsequently, the EP was able from now on to interfere in areas such as counter-terrorism, police and judicial cooperation in criminal matters. Therefore, the Stockholm Program has been a central tool in shaping the objectives and guidelines for the area of freedom, security and justice. Moreover, for too long the area of freedom, security and justice has been shaped according to a security logic to the detriment of freedom and justice because it has been dominated by intergovernmental dynamics. Before the Treaty of Lisbon, the national actors prevented the EP from participating in the decision making process. Therefore, the new multi-annual program represented a shift in the area of migration and home affairs since the EP received a new role. Though, this has not led to a fundamental

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change, meaning that even throughout the Stockholm Program, security remained the
target of the area of freedom, security and justice, the only difference consisting of a
more equitable approach brought in by the EP.211

The Stockholm Program, called “An open and secure Europe serving and
protecting the citizens” has been assessed as less ambitious than the previous multi-
annual programs, based on its trend to find short-term solutions, rather than long policy
goals for the CEAS.212 Furthermore, while developing less resourceful objectives in the
immigration and asylum area, the new changes introduced by the Lisbon Treaty point
out a strong inclination towards security-oriented measures and policies. The main
change in this regard was the requirement for a new High Representative for Foreign
Affairs and Security Policy, together with the establishment of the EU’s new
department, the European External Action Service.213 As Collett indicates, the
Stockholm Program has not made any clear indications as to the relation between the
asylum policy and the High Representative.214 Nonetheless, the Stockholm Program,
has to some extent enhanced the use of the Global Approach to Migration and Mobility
and its strong emphasis on establishing partnerships with third countries. As a proof, the
new program not only accentuates the external dimension of asylum, by prioritizing it
on the policy agenda, but it goes further on to amplify the external dimension of
freedom, security and justice.215 Advocated by the EU, as a means to ensure policy
coherence between its internal and external dimensions and to guarantee bilateral and
regional alliances based on mutual interests, based on prior experience, an unpolished
translation would be read differently. Essentially, so far, the partnerships have allowed
the EU to prevent, control and restrict the migratory flows, regardless of the type of
migration they have been dealing with. Finally, the external dimension is closely linked
to the EU’s foreign policy, stating that several areas, including asylum, have to be
incorporated into the foreign policy area of activity.216

211 Ariadna Ripoll Servent, “Point of no return? The European Parliament after Lisbon and Stockholm”,
212 Elizabeth Collett, “The European Union’s Stockholm Program: Less Ambition on Immigration and
Asylum, but more detailed plans”, Migration Policy Institute, January 12, 2010.
213 Treaty of Lisbon, Amending The Treaty on European Union And The Treaty Establishing The
214 Collett, “The European Union’s Stockholm Program: Less Ambition on Immigration and Asylum, but
more detailed plans”, 4.
and protecting citizens”, Official Journal of the European Union, 4 May 2010, 73.
216 Collett, “The European Union’s Stockholm Program: Less Ambition on Immigration and Asylum, but
more detailed plans”, 3.
3.2. Discursive patterns

Throughout the Stockholm Program, the EP’s discourse has revolved around humanitarianism and security. As the previous parts of our analysis have showed, immigration and asylum area has been structured based on a transnational decision-making process. Thus the EP has been turned away from the executive branch, with the Commission being the legislation initiator and the Council, being the exclusive lawmaker. When the states and national governments had the exclusive power to decide upon immigration and asylum issues, the EP remained an outsider, its views being disregarded by the Council and the Commission.217 This has caused at times a conflicting argument between the EP and the Council, since “opposing the Council bore no political consequences.”218 Essentially, the Lisbon Treaty excluded the pillar structure and expanded the community method of decision-making to police and judicial cooperation in criminal matters. Through the community method, the Commission kept its central role in formulating legislative proposals, the Council used the qualified majority voting [QMV], the EP was included in the decision-making, though depending on the policy areas, and the ECJ guaranteed the judicial accountability.219

With a new five-year plan with guidelines for justice and home affairs, the EP emphasized the importance of balancing security and freedom, by stating that “security must be pursued in accordance with the rule of law and subject to fundamental rights obligations.”220 The EP, as the Council, indicated that the area of freedom, security and justice needs a “more holistic approach” targeting the economic development of the Union and the positive impact the migratory flows would have on it.221 The economic needs-based approach constitutes a new element that has emerged in the EU’s discourse in relation to asylum, as the EU actors have been employing it more often. Certainly, migration has been seen long before as a crucial instrument to boost the EU’s economic

221 Ibid.
growth. Thus this has been articulated only in relation to irregular migration, with the EU showing more support for high-skilled migrants.

The innovation of the Stockholm Program remains in its proposal that the EU should accede to the 1951 Geneva Convention and its 1967 Protocol in order to ensure that any further development of the asylum policy will be deeply ingrained in the Convention relation to the Status of Refugees.\textsuperscript{222} Despite the fact that from a humanitarian perspective, the accession would represent a step forward towards granting uniform standards of protection, other scholars argued that the accession is seen as a way to enhance the institutional relations between the EU and the UNHCR.\textsuperscript{223} Moreover, this action would show the EU’s liability to refugee protection, but it would also reinforce the EU’s power in the possible advancement of international refugee law.\textsuperscript{224}

Despite some progress noticed at the EU level, mainly seen at the policy level through legislations and agreements with third countries, the commission indicated that these instruments have to be revaluated and additionally refined. Overall, the Commission has been diffusely indicating the slow legislative evolution in the asylum area.\textsuperscript{225} Several reports from the Commission have pointed out that procedures and the ways regulations and directives are applied differ across the EU. The disparities pointed out regarded the accelerated procedures, the comprehension of the “safe country of origin” and the “safe third country”. Multiple administrative mistakes have been revealed so to explain why the MS failed to apply likewise the Directive on minimum standards, pointing out the incomplete transpositions and flaws in its implementation. By 2010, the Commission indicated that the EU had failed to create a level playing field in the area of asylum and at a procedural level; the asylum system was not efficient enough.\textsuperscript{226}

Generally, the Commission has preserved the same type of discourse as during the

\textsuperscript{224} Ibid.
previous programs, mainly promoting a “forward-looking”, “comprehensive” and “coherent” approach to immigration and asylum area. The growing prominence given to human rights, by employing words such as “responsibility” and “solidarity” towards asylum-seekers, showed that the Commission has not made use of a securitarian rhetoric during the Stockholm Program.\(^{227}\) Moreover, the Commission proposed the creation of a Joint EU Resettlement Program, suggesting that “a strategic approach and political steering on the use of resettlement is needed.”\(^{228}\) The motion came following the EP’s resolution, emerging during the Hague Program, pointing out that the EU should work on a mechanism to allow the asylum-seekers to enter the EU in order to prevent “the spontaneous asylum-seeker”.

With the beginning of the Stockholm Programme, the Council emphasised the idea that any further development of the asylum policy has to be based on “responsibility, solidarity and partnership”, by adopting a comprehensive approach.\(^{229}\) Immediately, we notice that the Council’s discourse has been constant during the past decade, as at the speech level, the Stockholm Programme does not introduce any changes. Undeniably, the Council’s discourse, which to some extent represents the EU’s voice as a whole, is the subjective translation of the EU’s deep-rooted set of humanitarian beliefs. Now, we do not question the EU’s ethical beliefs, especially when dealing with such sensitive matters such as asylum. Nonetheless, given our previous findings, which suggested a paradoxical manner of operating in the EU, translated as an encounter between the subjective and the objective, we recognize that the same pattern prevails throughout the Stockholm Programme. We will further on see if our hypothesis is valid at the practice level, as promoted by the Stockholm Program.

Additionally, The Stockholm Program focused on developing the area of freedom, security and justice, by “serving and protecting EU citizens and those living in this area”.\(^{230}\) The assumption that the EU citizens have to be defended, whereas avoiding specifying the nature of the threat they have to be protected from has been the only security-oriented reference we have identified. Nonetheless, the EU citizens having to be ensured safe conditions in the area of freedom, security and justice, has been from


\(^{228}\) Ibid.

\(^{229}\) Council of the European Union, Conclusions, Brussels, 10/11 December 2009.

\(^{230}\) Ibid.
Tampere to Stockholm, a recurring element in the EU’s rhetoric. Hence, this is evidence of the securitization bias the area of freedom, security and justice has been built upon.

Whereas the Commission has called attention in several communication papers to the stagnant development of the asylum policy, the Council has applauded the “significant progress has been achieved to date in this field.” The Council has considered the partnerships with the third countries and the full growth of the security-oriented agencies such as Europol, Eurojust, the European Union Agency for Fundamental Rights and Frontex as important steps taken towards CEAS. What the Council has failed to make clear is what exactly do they understand through a significant step. On one hand, the operations led by these agencies do show a level of harmonisation and cooperation between the MS. But on the other hand, it does not prove a progress at the asylum policy level for the applicants, since it only toughens the process of asylum seeking.

As we have seen since the Tampere Program, cooperation with countries of origin and transit countries remains one of the primary schemes the EU has been employing when referring to asylum and immigration matters. The Stockholm Program made no exception in this sense and cooperation with third countries was a top priority for the EU, being established even before, with the entry into force of the European Pact on Immigration and Asylum. One of the main differences when tackling this collaborative approach has been the fact that partnerships with third countries were now perceived as a way to advocate the immigration and economic development link.

The analysis throughout the Stockholm Program has revealed that the Council approached migration, even when referring to the asylum policy, through economic lenses stating that:

(…) in the context of the important demographic challenges that will face the Union in the future with an increased demand for labour, flexible migration policies will make an important contribution to the Union’s economic development and performance in the longer term.

By bringing into discussion issues such as migration and integration, the Council showed an innovative approach to migration. It is also interesting to note that whereas

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232 Ibid.
the discourse contained elements such as “solidarity”, which we have already identified during the Tampere and the Hague Programs, throughout the Stockholm Programme “solidarity” is associated with sustainability.235

3.3. Securitizing technologies

The two previous sections of our analysis showed that the EU practices have been security-oriented, making use of diverse technical controls and biometric databases indicating that there is a strong security-migration nexus across the EU.236 These securitization practices have emerged despite the lack of a securitarian discourse, leading other scholars to mention that the practices of securitization have to be understood as a series of actions inherently ingrained in the EU’s modus operandi.237 Empirically, during the Stockholm Program, the EU institutions maintained the same practices and even proceeded to reinforce them.

The Commission has presented several proposals to “creating a Common European Asylum System and upgrading Frontex.”238 Again, the Commission’s proposal is a proof of our earlier argument focusing on the subjective versus objective. The affecting rhetoric the Commission had from the beginning of the Stockholm Program is disapproved by its proposals targeting security in absolute priority. Notwithstanding, when referring to amendments of the Dublin and Eurodac Regulations, which have to be approved by the Council and the Parliament, the Commission’s discourse acquires an affective note, by asserting that “solidarity among Member States is needed as one of the components of the CEAS.”239 It is interesting to observe how the discourse becomes more powerful using words such as “solidarity” when referring to the EU, as “us”, in order to convince the MS to support the proposed security-oriented mechanisms.240 But this affecting type of discourse is essential because it reveals the distinction between the inside, as the area of freedom, security and justice and the outside of this area. Moreover, this type of emotional discourse, when referring to the

239 Ibid.
240 Ibid.
EU, is used when the Commission advocates more support from the MS for a security agency, such as Frontex.

The Council has sought more consistency between the external and internal policies from the area of freedom, security and justice. Additionally, similarly with the Commission, has pushed for more support for the Union agencies – Europol, Frontex, Eurojust, but also for the newly established European Asylum Support Office and the European Union Agency for Fundamental Rights.\textsuperscript{241} The Council gave special attention to the area of freedom, security and justice by pointing out the fact that “internal and external security are inseparable.”\textsuperscript{242} This represents the main reason, which pushed the EU to advocate that the external dimension has to be included in the EU’s general policy objectives. By affirming that “addressing threats even far away from our continent, is essential to protecting Europe and its citizens”, the Council mentioned that relevant agencies such as Frontex and Europol have to be included in the development of EU’s external relations.\textsuperscript{243}

But the Frontex agency was given more competences and resources, following the European Pact on Immigration and Asylum, which preceded the Stockholm Program. Among the priorities of the European pact, border control was third on the list, becoming part of the development of the CEAS.\textsuperscript{244} The Council enunciated also establishment of the VIS across all the MS, by January 2012. Furthermore, the Council articulated the EU’s need to “deploy modern technological means” in order to allow the management of the EU’s external borders.\textsuperscript{245}

It is clear by now that two different processes are taking place in the area of immigration and asylum. The first one takes place in the discursive sphere where humanitarianism and themes associated with it, such as responsibility, compassion and generosity have been strongly advocated along the years by the EU. The second process occurs to some extent behind the EU’s curtains, and represents a continuous securitisation reinforced with the use of surveillance, military equipment and biometrics-based systems.\textsuperscript{246} Undoubtedly, the EU has never denied the use of these

\textsuperscript{242} Council of the European Union, Conclusions, Brussels, 10/11 December 2009.
\textsuperscript{243} Ibid.
\textsuperscript{245} Ibid, 9.
\textsuperscript{246} Aas and Gundhus, “Policing Humanitarian Borderlands: Frontex, Human Rights And The Precariousness Of Life”, 2.
systems, but their justification has mainly been related to a better management of migratory flows. The EU’s duality is strongly emphasised by the incoherence between the European values – human rights, freedom and equality, and the transnational policing, which does not render the European values.

3.4. Conclusion

Throughout the third chapter, the research took into consideration three aspects meant to show if asylum became a subject of concern for the EU’s security: the securitizing actors, the discursive patterns and the securitizing technologies. Considerable attention has been paid to the new political context in the EU, given the revisions introduced by the Lisbon Treaty. Subsequently, the analysis revealed the existence of the same pattern that has prevailed in the decision-making process in the area of asylum, since it became a central element on the EU’s agenda, in 1999. Thus, we identified the same inconsistency between the discursive and non-discursive practices. In what follows, we are going to summarize them.

Firstly, the EU has not pictured the asylum-seekers as threats, as none of documents we scrutinized pointed out any negative or derogatory terms in relation to people seeking international protection. Nevertheless, the Council made constant references to the EU’ area of freedom, security and justice, describing it as safe environment, which has to remain as such.\(^{247}\) This does not represent a direct implication of a threat, although it is implied that an “unknown” risk is threatening the EU’s balance and security.

Secondly, despite the absence of a threat at the discursive level, the EU has agreed upon a series of measures to respond to the increasing migratory flows. Prevention, as part of the external dimension approach, has ranked high among the EU actors, as it has already did during the Hague Programme, as part of the comprehensive approach on immigration. Furthermore, tightened border controls coupled with border control technologies are a sign of securitization of asylum in EU. Additionally, the Council expressed its approval as regards the operations carried out by Europol, Eurojust and Frontex. Essentially, these security-oriented agencies became part of every discussion on asylum in the EU. Thus, the interconnection between asylum and

terrorism and crime becomes more evident, justifying the restrictive and preventive approaches in the asylum area.

Having said that, asylum has been securitized during the Stockholm Program, but not through the speech acts. The non-discursive practices are at the core of the securitization of asylum in the EU. Not only, the asylum-seeker and refugees are not portrayed at threats, but the overall discourse around people seeking international protection is framed around charity and compassion. Nevertheless, the restrictive practices and the technological solutions to manage migration are a clear sign of securitization.
Analysis

This research has been driven by the aim of understanding whether and how the Iraqi inflow of asylum-seekers, as a repercussion of the Iraqi War, tested the development of the CEAS, leading further on to the formulation of asylum-seekers as a threat to the EU’s security. The three multi-annual programs in the area of freedom, security and justice have been at the center of this study, given that each of these programs incorporated a substantial and inclusive political agenda in the area of immigration and asylum. The main reason behind the structure of the current research paper is related to the chronological development of the CEAS, in the late 1999, with the first five-year program established in Tampere. Starting with the Tampere Program, the main goal of this research has been to identify the EU’s initial discourse and practice, translated through the policy-making, before the actual refugee inflow began. Subsequently, after having identified the main discursive patterns in relation to the notion of asylum from the introductory phase of the CEAS, the research moved further on to the next five-year programs, setting up the priorities for the advancement of the asylum policy. Essentially, this research format has helped to pinpoint any securitization variations in the EU’s discursive and administrative spheres, before and after the inflow of Iraqi asylum-seekers.

Overall, the analysis brought to light the complexity of the securitization process, which cannot always be efficiently identified, according to the securitization theory supported by the Copenhagen School. Nonetheless, given the composite theoretical framework, borrowing elements from Buzan, Bigo and Balzacq, we were able to single out several security-oriented elements emerging throughout the analysis of official documents from the Council of the European Union, the European Commission and the European Parliament. The research attempted to pay equal attention to both discursive and non-discursive practices in order to ensure that we will fully comprehend the securitization process.248

Following a thorough analysis of the EU’s discursive and non-discursive practices in the area of asylum, the research concludes that asylum has been securitized

in the EU. Nevertheless, we found no evidence of a causal link between the Iraqi inflow of asylum-seekers and the conceptualization of asylum-seekers as threats to the EU’s stability. The conclusion is based on the chronological analysis tracking the development of the CEAS, which showed that the asylum policy had been shaped according to a security-oriented reasoning, long before the inflow of Iraqi asylum-seekers started. Hence, asylum-seekers have been considered as a security matter with further implications on the EU’s identity and its socioeconomic wellbeing, requiring solutions out of the realm of normal politics. The urgent countermeasures envisaged by the EU have been agreed upon through institutional consensus, revealing a unanimous acceptance of asylum-seekers disseminating fear.

Firstly, the securitization process has not been initiated at the discursive level, as Buzan et al. indicate. The discursive analysis showed that the EU actors have not introduced asylum-seekers as posing a risk to the EU. Constant references to further implications and risks the asylum-seekers would have on the EU given the association to terrorism and crime, have emerged through correlation with illegal immigration. Otherwise, we have not identified any framing of asylum as a security threat in the speech acts. Secondly, the EU’s non-discursive practices have revealed the securitization of asylum, given the restrictive measures and technological solutions employed to counterbalance the migratory flows. The range of technologies endorsed as emergency measures to tackle immigration is a proof of the EU’s “management of unease”.

The disparity we have identified between the EU’s performativity and its responses to the increasing migratory flows, found in the EU’s support of securitizing technologies and its endorsement for security-oriented agencies so as to protect Fortress Europe, reveals that security is not deep-seated in the speech acts. On that account, securitization cannot be entirely traced through textual analysis, given the harmonization of non-discursive practices, political agency and context, which render possible the securitization process. Furthermore, this discrepancy between rhetoric and policy-making suggests the fact that asylum has become normalized as a security challenge in the EU circle, being justified by this contradiction. This argument has been

previously supported by other scholars, but in the area of irregular immigration in the EU. If asylum has already been asserted and accepted in the union as a threat through a linkage to social unrest, terrorism and crime, then there is no longer a need for securitizing moves, which has been the case with the asylum-seekers. Nonetheless, the need for a common response to counteract the threat persisted, being detectable through a series of restrictive measures coupled with an increased use of security-oriented systems. The role of technology here cannot be overlooked since the usage of technology has two main implications. On the one hand, surveillance technologies employed by Frontex and databases such as Eurodac are collecting and analyzing data in order to guarantee security, this being their main objective. On the other hand, once the security professionals make use of these security-oriented systems as the main alternative to respond to matters such as migration, they automatically link migration to crime, terrorism, trafficking and clandestineness. In what follows, we are going to compile the main findings of our analysis, according to the research structure, based on the three multi-annual programs.

The first segment of the analysis proved to be descriptive of the EU’s modus operandi in the area of immigration and asylum because we identified a pattern, illustrating the way the EU has been handling the implementation of the CEAS. The pattern reflects two different courses of action emerging in the EU’s asylum area. We have found the first one in the discursive construction of asylum-seekers and refugees and we have identified that asylum has not been conceptualized in pejorative terms, but according to a humanitarian oriented approach. Essentially, at the discursive level, the architecture of the CEAS since the Tampere Program has been entrenched in humanitarianism. The second pattern, nonetheless, revealed a radical shift from the rhetoric to the practice level, translated through the consistent backing of several security-oriented technologies, meant to protect the EU’s territory. This early contradiction has been the first indicator of the securitization of the CEAS, given that the EU’s humanitarian discourse represents an outgrowth of the security-oriented mode of action.

252 Van Dijck, “Is the EU policy on illegal immigration securitized? Yes of course! A study into the dynamics of institutionalised securitization”, 4.
254 Ibid.
Furthermore, the examination of the Tampere Program zoomed into the creation of the area of freedom, security and justice, by insisting on the clashing relation between the inside and outside of the EU. The overall discourse being constructed around the area of freedom, security and justice has drawn a line between the EU’s internal and external dimensions, “othering” the asylum-seekers. The alienation of the asylum-seekers and refugees occurs as the EU is referred to as an “area”, pointing out that the EU is a community built on the same principles and values, which the asylum-seekers do not share. Additionally, the use of terminology assigned to the EU’s area indicates a strong emphasis on the “security”, whereas “freedom” and “justice” are overlooked. All these findings are another indicator of the security continuum of asylum, which further on legitimized the use of security-oriented technologies.

Another element that has prevailed in the EU’s bureaucratic universe since the Tampere Program in area of immigration and asylum has been the refusal of distinguishing between asylum-seekers and irregular migrants. The affiliation between the two occurred more at the practice level, with Frontex being the EU’s guardian, failing to differentiate between migrants seeking international protection and economic migrants. This amalgam of asylum-seekers and economic migrants has allowed the EU to induce the idea that the area of freedom, security and justice has to be defended from an unnamed threat, reference emerging regularly in the EU’s discourse. But other scholars have translated the EU’s failure as the EU’s unwillingness to separate the various types of migration, with the main purpose of avoiding creating legal means for the asylum-seekers. Moreover, given the insecure state of affairs in the countries of origin, generating high numbers of refugees made the host governments to treat the asylum-seekers as illegal immigrants because they have a strong attachment to the dangerous situation from back home. In the management of migration, this strategy

of minimizing the distinction between asylum-seekers and migrants has become a common practice, which is a strong proof of securitization.\textsuperscript{261} Hence, this is another element leading us to conclude that the asylum policy has been framed as a response to a threat.

As the analysis moved forward, we juxtaposed the patterns we have identified during the Tampere Program to the Hague Program. Therefore, we singled out a shift in the EU’s rhetoric. Suddenly, The Hague Program marked a new beginning in the area of immigration and asylum, not only due to a recent political agenda, but also because the second phase of the CEAS had to address the EU’s concrete and tangible needs. These needs emerged in the context of the Iraqi refugees inflow, compelling the EU to reorganize the advancement of the CEAS accordingly. Now this represents a crucial element in terms of timing and external factors because the first phase of the CEAS was framed on a hypothetical basis.

The opposing relation between duty and threat that we have identified throughout the Hague Program is the translation of the antagonism between rhetoric and reality. The discourse employed during the Hague Program did not distance itself from the one employed during the Tampere Program, given the strong dissension we have identified between human rights and border control. The rhetoric kept the same patterns we had identified before, with the main difference that this time the “human drama” has been highly accentuated.\textsuperscript{262} Thus again, at the discursive level, the EU acknowledged the cruel reality of the refugee situation, employing a human rights oriented discourse with the aim of harmonizing the minimum standards for asylum. Nevertheless, at the practice level, the evolution of the CEAS during the Hague Program has been rather slow, indicating a high degree of aversion and deterrence against creating additional legislation meant to assist the asylum-seekers. Essentially, this shows how refugees have been diffusely connected to the precarious security situation back in their home countries, being seen as possible threats to the host countries.\textsuperscript{263} Striving to strengthen the border controls and ensure a better management of the migratory flows, the EU has not regarded the refugees and the asylum-seekers as sufferers at the policy level, but it

\textsuperscript{262} European Parliament, Joint Motion for a Resolution, 29 September 2006.
\textsuperscript{263} Loescher and Monahan, Refugees and international relations, 3.
has regarded them as parts of a united group, becoming more powerful outside their country of origin.264

Despite an affective and compassionate discourse on human rights in every immigration and asylum related policy document, the analysis displayed an increased endorsement for security-oriented agencies, securitizing technologies embedded in the EU’s regulations such as Dublin and Eurodac Regulations. Certainly, the policy documents endorsing security-oriented agencies and technologies, referred mostly to irregular migration. When, they did mention the refugees and asylum-seekers, they concentrated on the fact that Dublin and Eurodac Regulations are a response to “asylum shopping”.265 On that account, given the restrictive, preventive and deterring measures and amendments of the existing asylum instruments, the CEAS has preserved a securitarian architecture throughout the Hague Program.

The Stockholm Program, which was supposed to complete the CEAS, has been less goal-oriented, than the previous programs in the justice and home affairs area. Even though the asylum policy has been stated as a priority, the ambiguity of the rhetoric employed by the EU actors showed a reluctant attitude towards completing the CEAS. Nonetheless, the discursive construction of the asylum-seekers has kept the same humanitarian approach; hence we have not identified any securitizing moves.

Several changes introduced by the Lisbon Treaty in the decision-making process such as the increased competence of the EP in the area of immigration and asylum, following the ordinary legislative procedure, the increased accountability of ECJ, and the new High Representative for Foreign and Security policy underline the intricacy of the process of concluding the CEAS. These new changes reveal several contradictions in the set up of the asylum policy. On the one hand, the ordinary legislative procedure made the EP more listened to in relation to asylum matters. Thus, given the EP’s humanitarian and compassionate stance on the refugee and asylum seekers situation, in theory the new procedure allowed the Parliament to promote a desecuritization approach. Nonetheless, this has not been the case. The EP continued to embrace the same contradictory manner of operating. Additionally, these contrasting principles have been repeatedly identified in the EU’s discourse, struggling between a humanitarian

discourse and an utilitarian one, referring to long-term advantages the migrants, regardless of the type of migration, could have on the EU’s economic development. Furthermore, the focus on securitizing technologies has shifted towards a more refined discourse in this sense. During the Stockholm Program, the EU referred less to security oriented systems and agencies, but more to the external dimension of the asylum policy. However, emphasizing the external dimension of the asylum policy meant to include migration related area under the EU’s foreign policy umbrella. Though, in consideration of the previous way of tackling the external dimension of the asylum policy, based on partnerships with countries of origin and transit countries, this has been mainly a tool of managing the migratory flows, by preventing them to enter the EU’s territory.
Conclusion

By the time we started our research, in September 2015, everyone was discussing asylum and refugees, particularly in relation to the EU. Though this time, the country of origin was not Iraq, but Syria. To say the least, the EU was caught in a *déjà-vu*. The crucial difference remains to be found in the Commission’s statement, describing the Syrian conflict as the biggest humanitarian crisis since World War II.266 Given the magnitude of the conflict, as described by the Commission, the EU could use the past lessons to find solutions for the current migratory wave of Syrians. Certainly, throughout our research, we have not claimed the existence of any similarity between the two conflicts. What is more, we do acknowledge that the EU should address the present state of affairs differently. But emphasizing less the magnitude of the Syrian migratory wave whereas focus more attention on resolutions, could be bring a sense of purpose in today’s debate. One of these resolutions should be the completion of the CEAS, as the EU has failed to meet several deadlines established by the Commission for its achievement.

The analysis covered the time marking the initiation of the CEAS, in 1999 with the Tampere Program, and the deadline scheduled for the completion of the CEAS by the Stockholm Program, which should have been in 2012. Nevertheless, to this day, the EU continues to work on the establishment of the CEAS, by focusing on the revision of the existing jurisdictive groundwork. Therefore, these findings target only the above-mentioned time frame, which provided enough data, connected to our research question. Without doubt, the research could continue so to see how the concept of asylum has been shaped and influenced by the increasing numbers of Syrian asylum claims.

The research focused on the Iraqi migratory flow to the EU, which started by the mid-2000s. Simultaneously, the EU was trying to set the foundation of its common asylum policy. Hence, the main hypothesis has been that the unexpected increasing numbers of asylum claims tested the institutionalization of the asylum policy. Moreover, the purpose of this research has been to identify whether this migratory wave has led the EU to frame the asylum-seekers as threats to the EU’s societal security. By employing a composite theoretical framework, we took into consideration the speech acts of the three main EU actors, involved in the policy-making of the area of freedom, security and

266 European Commission, Humanitarian Aid and Civil Protection, Syria Crisis, Echo Factsheet.
justice: the European Commission, the Council of the European Union and the European Parliament. Though, we have to mention that before the Lisbon Treaty, the Parliament has had limited competence in migration-related affairs, hence it had more of a symbolic role.

The investigation brought to light the existence of two parallel processes occurring in the development of the CEAS. Thus, the analysis is to some extent divided between the EU’s rhetoric and the policy-making. This was not our initial intention, but as we advanced with our research, we noticed the prevalence of these two courses of actions, which despite being divergent did have a juncture: the securitization of asylum.

It is clear by now that this research paper considered only the supranational level, which initiated the establishment of the CEAS. Nonetheless, future research could take into consideration the national views on the common asylum policy and indicate how they could be mapped together. Including the national actors into the analysis, beyond the Council’s view on the asylum policy, would bring another perspective on the process of the securitization, because ultimately all the measures and legislative instruments depend on the MS. Given the findings which suggested a constant clash between the EU institutional level and the national level, we argue that the national governments are the most vehement securitizing actor. Certainly, further research is needed to prove this argument, but it could constitute a point of departure.
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