Malignant Europeanization: Schengen, Irregular Migration Governance, and Insecurity on Europe’s Peripheries

by

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Abstract

This thesis examines the relationship between open borders and free mobility in Europe, the Schengen regime, and security around Europe’s peripheries. Schengen is a constitutive element of the European project. Its maintenance depends on what the EU refers to as “compensatory measures” for addressing uncontrolled migration.

I ask two questions: What is the relationship between the European project and changes in irregular migration systems? How do Schengen’s compensatory measures meet the EU’s stated foreign policy goals of fostering a ring of stable democracies in its near-abroad?

My causal argument is that Schengen’s compensatory measures cause changes in irregular migration systems, which result in insecurity around Europe’s peripheries. I argue these dynamics are evidence of Malignant Europeanization, which I define as insecurity and regressive practices and norms resulting from Europe’s regional integration.

I situate this project in the Europeanization literature, which analyzes relationships between European integration and changes in practices, institutions, and norms. Europeanization’s main indicators are reform toward democratic governance, rule of law, rights protections, and liberal market economies: benign Europeanization.

In contrast, I identify eight indicators for Malignant Europeanization: migrant insecurity; increased transnational crime; security sector corruption; emboldened militarized non-state actors; domestic political contestation; entrenched authoritarianism and democratic backsliding; burden-shifting and regional tensions; and international norm degeneration.

Findings are based on comparative case studies across four irregular migration systems: the Western Mediterranean, Central Mediterranean, Western Balkans, and Central and Eastern Europe. Evidence is derived from three years of fieldwork. Variation depends on domestic characteristics in transit states and external incentive structures. In the absence of membership incentives Europe lacks leverage to foster benign Europeanization. Findings problematize the framing of Europe as a progressive global influence. They also raise significant questions about the effectiveness of European foreign policy goals of fostering a ring of stable democracies around its near abroad.
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### Glossary of Abbreviations

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<tr>
<th>Abbreviation</th>
<th>Description</th>
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<tbody>
<tr>
<td>AFSJ</td>
<td>Area of Freedom, Security, &amp; Justice</td>
</tr>
<tr>
<td>AMIF</td>
<td>Asylum, Migration, &amp; Integration Fund</td>
</tr>
<tr>
<td>CEAS</td>
<td>Common European and Asylum System</td>
</tr>
<tr>
<td>CEE</td>
<td>Central and Eastern Europe</td>
</tr>
<tr>
<td>CFSP</td>
<td>Common Foreign and Security Policy</td>
</tr>
<tr>
<td>COREP</td>
<td>Committee of Permanent Representatives of the Governments of the Member States of the European Union</td>
</tr>
<tr>
<td>DG HOME</td>
<td>Directorate General for Migration &amp; Home Affairs</td>
</tr>
<tr>
<td>DG JUST</td>
<td>Directorate General for Justice &amp; Consumers</td>
</tr>
<tr>
<td>DG NEAR</td>
<td>Directorate General for Neighbourhood &amp; Enlargement Negotiations</td>
</tr>
<tr>
<td>DG RELEX</td>
<td>Directorate General for External Relations</td>
</tr>
<tr>
<td>EASO</td>
<td>European Asylum Support Office</td>
</tr>
<tr>
<td>EEAS</td>
<td>European External Action Service</td>
</tr>
<tr>
<td>EMP</td>
<td>Euro-Mediterranean Partnership</td>
</tr>
<tr>
<td>ENP</td>
<td>European Neighbourhood Program</td>
</tr>
<tr>
<td>EU</td>
<td>European Union</td>
</tr>
<tr>
<td>EURA</td>
<td>EU Readmission Agreement</td>
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<tr>
<td>EUROCIP</td>
<td>European Dactyloscopy</td>
</tr>
<tr>
<td>(Biometric data system for asylum seekers &amp; apprehended migrants)</td>
<td></td>
</tr>
<tr>
<td>GAM</td>
<td>Global Approach to Migration</td>
</tr>
<tr>
<td>GAMM</td>
<td>Global Approach to Migration &amp; Mobility</td>
</tr>
<tr>
<td>HLWG</td>
<td>High Level Working Group on Asylum and Migration (Council)</td>
</tr>
<tr>
<td>ICMPD</td>
<td>International Centre for Migration Policy Development</td>
</tr>
<tr>
<td>IGC</td>
<td>Intergovernmental Conference</td>
</tr>
<tr>
<td>IOM</td>
<td>International Organization for Migration</td>
</tr>
<tr>
<td>IPA</td>
<td>Instrument for Pre-Accession</td>
</tr>
<tr>
<td>JHA</td>
<td>Justice &amp; Home Affairs</td>
</tr>
<tr>
<td>MP</td>
<td>Mobility Partnership</td>
</tr>
<tr>
<td>FRONTEX</td>
<td>European Agency for the Management of Operational Cooperation at the External Borders (Pre 2016) / European Border &amp; Coastguard Agency (Post 2016)</td>
</tr>
<tr>
<td>PHARE</td>
<td>Poland and Hungary Assistance for the Restructuring of the Economy</td>
</tr>
<tr>
<td>RCP</td>
<td>Regional Consultative Processes</td>
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<td>RDPP</td>
<td>Regional Development and Protection Program</td>
</tr>
<tr>
<td>RPP</td>
<td>Regional Protection Program</td>
</tr>
<tr>
<td>TCN</td>
<td>Third Country National</td>
</tr>
<tr>
<td>TEU</td>
<td>Treaty of the European Union (Lisbon)</td>
</tr>
<tr>
<td>UNHCR</td>
<td>UN High Commission for Refugees</td>
</tr>
<tr>
<td>UNODC</td>
<td>UN Office of Drugs &amp; Crime</td>
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<tr>
<td>VFA</td>
<td>Visa Facilitation Agreement</td>
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Chapter 1 Introduction: Normative or Fortress Europe?

The catalyst for this project came at a 2006 training course on mediation and international dispute resolution I attended in Nicosia, Cyprus. One of the course modules was on boundary disputes and negotiations to pacify borders in post-conflict settings. An invited speaker from the Carter Center in Atlanta referred to the tension between Europe’s global leadership in dispute resolution, while at the same time embarking on the project of creating “Fortress Europe”. The term was new to me. It grated against my International Relations education which presented the EU as a symbol of progress in the anarchic international system, with a normative foreign policy agenda of fostering democracy through positive incentives rather than Anglo-American style regime change.

Irregular migration to Europe was still some years away from dominating the global news cycle. Preliminary research led me to a series of incidents in 2005 around the Spanish enclave cities of Ceuta on Melilla on the North coast of Morocco – Europe’s last territorial holdings and only land borders on the continent. The cities had become a key entry point into Europe for migrants from across Sub-Saharan Africa after a long and often dangerous journey. Facing growing migration pressure, in 1999 Spain ringed the cities with double layer, three metre-high fences topped with razor wire and monitored by floodlights and sensors.

The barriers meant migrants accumulated in camps in the hills above the cities, which they referred to as The Jungle. On the nights of 28 and 29 September, in coordinated actions, thousands stormed the fences using home-made ladders and grappling hooks. The Spanish Guardia Civil used rubber bullets and teargas to push back migrants; Moroccan security services allegedly used live ammunition.¹ A dozen migrants were killed and dozens were severely injured. An estimated 700 made it over the fences. The scene was more reminiscent of a medieval battle than a border to cosmopolitan Europe.

Over the following days Spain returned many of the migrants to Morocco despite requests for asylum, though stopped the practice under pressure from UNHCR and international rights groups.

What struck me most was that falling on the European side of a fence meant medical attention, access to asylum, and the potential for free movement throughout Europe, while falling on the Moroccan side of the fence meant punitive beatings, detention, and being dumped in Western Sahara or over the border with Algeria. Two starkly different fates separated by a razor-wire fence. It seemed an altogether different picture than presented in IR literature about Europe’s pacific security community. I became a cynic (see also Hansen & Gibney 2003).

In Ceuta and Melilla, the “Fortress Europe” analogy rang true – Europe comprehensively sealing its external borders and extending migration control outward through deals with transit states. After expanding the scope of research, however, the analogy proved deeply unsatisfying. Europe’s external land borders are in the East, where the EU offered membership to states in the post-Soviet sphere and Western Balkans. European states did not (until recently) fence their borders, but controlled access through border checkpoints at road and rail crossings.

More importantly, the fortress analogy glosses over the importance of European domestic politics. Since the mid 1990s irregular migrants have used Europe’s asylum system to gain territorial access, often absconding after lodging a claim or a receiving a negative decision. The narrative of economic migrants abusing asylum systems eroded domestic support for offering international protection to those with genuine claims, and led to growing calls to control immigration at precisely the moment when Europe was developing its open border regime.

Indeed, much of the literature on Europe’s hard external borders ignores the fact that Europe is locked in a liberal paradox (see Huysmans 2000; Gibney 2004; Hollifield 2004). For all Europe’s historical faults, the post-war European project is grounded in liberal values, which informed the development of the European Union and its fundamental rights and freedoms. But its liberalism, rule of law, and prosperity make it a preferred final destination for hundreds of thousands of irregular migrants. The EU remains comprised of sovereign states in which democratically-elected governments are beholden to domestic constituencies for electoral success. Irregular migration has proven immensely unpopular across Europe, and state leaders must be shown to be doing something about it. Indeed irregular migration has become an issue of high politics and addressing it became a central and permanent theme not only for domestic elections but for the very meaning of the European project.
EU and international law mean that arrival at Europe’s external borders grants access to asylum systems. The paradox lies in the fact that responsiveness to domestic opinion often means deeply illiberal international practices to stop irregular migrants from reaching Europe in the first place. Europe’s open internal borders mean controlling irregular migration is a concern for all EU states. Finally, the “Fortress Europe” argument alights on Europe’s migration controls in third countries, particularly tactics like carrier sanctions and liabilities, refugee warehousing, and offering incentives for transit states to crack down on migrants, as examples of the extraterritorial extension of the European fortress (see Huysmans 2000; Hyndman & Mountz 2008; Balzacq 2009; Léonard 2010).

Without a doubt Europe does all these things. Indeed analyzing externalized migration controls comprises a good portion of this project. But a “Fortress” implies that Europe’s policies are effective or that Europe strives for closure. Neither statement is true. The analogy thus glosses over third country capacity, domestic politics, and strategic decisions. It also seems to miss the obvious point that extraterritorial controls fail to stop hundreds of thousands of irregular migrants from reaching Europe every year. While European policy choices have far-ranging effects, they are often not effective in the way that Europe would like.

Clearly the picture is more complicated than either the IR security community or “Fortress Europe” literatures capture, and both seem to offer insights into the relationship between Europe and irregular migration toward its external borders. Is there a discreet relationship between the violent nature of the Ceuta & Melilla incidents with Europe’s 20th century experience of progress from total war and genocide to a borderless, post-modern political community? To what extent do Schengen’s compensatory measures meet the EU’s stated foreign policy goals of fostering a ring of stable democracies in its near-abroad?

1.1 The Argument: Schengen, Irregular Migration, & Malignant Europeanization

I argue the progressive European project is predicated on insecurity around its peripheries. This does not simply mean that open borders inside mean tightened external controls, but that the maintenance of the progressive security community causes a range of insecurities and regressive practices and norms in peripheral transit states. While the claim is simple, the causal relationship requires some explication. This claim also runs counter to the entirety of the EU’s foreign policy discourse and much of the literature on Europe’s global influence.
Europe’s open borders and free mobility scheme, the Schengen regime, is a constitutive element of the European project, and underpins the economic and monetary union, common market, and European citizenship. Indeed, the EU makes little sense without Schengen (see Börzel & Risse 2017). Threats to Schengen (however constructed) are threats to the European project. Uncontrolled irregular migration is a threat to the European project insofar as it undermines states’ willingness to keep borders open. It matters very little whether migrants themselves are threats.

Given the high domestic political salience of the issue, and the mutually constitutive relationship between Schengen and the European project, open borders were always predicated on developing what the EU refers to as “Schengen’s compensatory measures” for addressing uncontrolled migration from outside Europe. Opening internal borders meant strengthening controls at external borders, developing burden-sharing and solidarity mechanisms for mass influxes, uploading security-centric migration and asylum policies to the supranational sphere, and mainstreaming migration controls into external relations (Lavenex 2006).

This study is concerned with the effects of those compensatory measures on irregular migration systems which share Europe as a common destination, and ultimately on the security, practices, norms and politics of sending and transit states in the near abroad. Irregular migration systems are comprised of migration flows (i.e., migrants themselves), facilitators (smuggling, traffickers, and security services), and sending, transit, and destination states. The nature of irregular migration systems is dictated by the direction and scope (pace and volume) of flows, state policies, state characteristics (regime type, state strength, corruption, etc.), facilitator practices, and geography. The scope and direction of flows are dictated by the relationship between push factors (poverty, perceived life chances, insecurity, war, persecution, climate and environment, etc.) and pull factors (relative safety, social networks, colonial ties, the promise of work, open asylum systems, etc.).

Irregular migration systems change over time depending on these variables. When faced with an irregular migration flow, states have three broad policy options: letting flows pass through their territory (wave-through policies, active transport between borders, ambivalence, etc.), containing flows (detaining migrants, offering residency or labour rights, asylum, etc.), or blocking flows (building fences, conducting pushbacks or sea interdictions, severe laws, etc.), or some combination of the three. Migration flows generally react to state policies by shifting routes, though individual migrants often become trapped. Journeys to Europe are often long (months or years) and fragmented,
passing through several transit states with their own challenges and opportunities (see Collyer 2007; Collyer & de Haas 2012). States are often at once sending, transit, and destination states. Irregular migration policy outcomes are often zero-sum; and one state’s policy choices necessarily affect other states in the system, necessitating further policy responses. Major changes in one state’s policies can cascade through a system (see Zolberg 1983).

To return to the fences around Ceuta and Melilla: the 2005 incidents took place at one of the last transit points in the Western Mediterranean irregular migration system. That system was comprised of sending states throughout sub-Saharan Africa, which transited overland through the Sahel toward the Mediterranean and Europe; a less-travelled branch of the system moved through West Africa and sea crossings to the Spanish Canary Islands. Morocco was until this point also a major sending state to Europe. Migrants on the route predominantly used local smuggling rings and paid new facilitators at different waypoints. Journeys took several weeks or months. Migrants in the Jungle were destined for Europe, but had become trapped because the previous sea route across the Strait of Gibraltar had become more difficult and expensive as a result of increased maritime patrols, new fences around the cities, inability to earn money to pay smugglers to move on or return home, and consistent extortion and robbery by police. After a period of non-compliance with Europe’s overtures, in 2003 changing incentives and domestic politics meant Moroccan cooperation with Spain to detain and deport apprehended migrants, which happened en masse after the incidents. Spain then added another layer of six metre-high, climb-proof fencing, and Moroccan security services increased repression on migrants. By 2006 the route shifted to sea crossings from Mauritania to the Canary Islands, prompting new EU overtures to West African states, more policy responses, more repression and detention, and shifting the system completely to join the Central Mediterranean irregular migration system from Libya to Italy. And so on.

Changes in irregular migration systems are correlated with a series of negative security repercussions and regressive practices and norms. I identify eight common indicators:

1) insecurity for migrants;
2) increased transnational organized crime;
3) security sector corruption;
4) emboldened militarized non-state actors;
5) domestic political contestation;
6) entrenched authoritarianism and democratic backsliding;
7) burden-shifting and regional tensions; and
8) international norm degeneration.

My argument is that Schengen’s compensatory measures, as described around the Ceuta and Melilla incidents, cause changes in irregular migration systems, though from a methodological perspective the relationship also has constitutive elements. Changes in irregular migration systems result in varying degrees of insecurity and regressive norms and practices. In certain instances, then, insecurity and regression around Europe’s peripheries are demonstrably caused by Schengen’s compensatory measures, upon which the European project is based. The effects are not simply negative externalities of foreign policy choices. They are uniquely rooted in the project of European regional integration. I describe this two-stage causal relationship as Malignant Europeanization.

1.2 Benign vs. Malignant Europeanization

I situate this project in the Europeanization research agenda, which analyzes the relationships between European regional integration and changes in domestic politics, institutions, and norms. The most robust empirical work on Europeanization has focused on the pre-accession domestic reforms toward eventual membership from the 2004 and 2007 EU enlargements, when twelve states joined the European Union (see Grabbe 2006; Graziano & Vink 2007; Börzel 2013). The 2004 “big bang” enlargement to ten states, particularly those in from the former Soviet bloc, was heralded as the EU’s greatest foreign policy achievement (see Grabbe 2004; Sedelmeier 2014).

Europeanization’s main indicators for changes in the dependent variable are around the reform of domestic institutions and laws to support democratic governance, rule of law, rights protections, asylum systems, and liberal market economies; and to fight corruption, organized crime, and irregular migration. I refer to progressive changes along these indicators as benign Europeanization.

In the post-Soviet sphere the conditions for benign Europeanization often meant directly transposing EU laws and Member State institutional structures onto relatively blank policy fields. Europeanization was successful when incentives outweighed domestic costs for compliance. The incentive of EU membership, entailing inclusion in the common market, labour mobility, capital flows, and EU funding, not to mention liberal freedoms in the wake of the collapse of the Soviet

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Union, drastically outweighed domestic compliance costs. In fact, states in Central and Eastern Europe were more concerned with being left behind. Elites and the general public shared a common narrative of accession as a “return to Europe” (see Grabbe 2014). The lowest referendum results for accession in post-Soviet sphere were in Estonia and Latvia, at around 67% approval. Average approval in the remainder was 85.5%.³

Border and migration controls were a primary European concern in the lead-up to enlargement given that new members would be responsible for controlling Schengen’s external land borders. The EU developed and codified Schengen’s compensatory measures during the accession process, allowing Western European states to upload irregular migration and asylum concerns, along with securitized policy solutions, to the supranational sphere. Accession states built asylum and immigration systems, visa lists, customs, and border controls from the ground up by transposing EU standards and practices. In 1999 the Schengen Border Code was rolled into the Amsterdam Treaty, and thus became part of EU law.⁴ Adopting Schengen’s compensatory measures was an early and binding prerequisite for accession progress. Scholarship is unanimous on the fact that the “golden carrot” of membership was a necessary condition for compliance.

More recently, Europeanization research began to examine the impacts of European regional integration in non-candidate third countries given the development of a more robust EU foreign policy. The 2004 European Neighbourhood Policy (ENP), the EU’s overarching policy framework, sought to emulate the successes from enlargement by offering incentives for compliance to third countries. Its stated goal was to draw third countries into closer cooperation with the EU, and thereby foster a ring of stability and “neighbourliness” around the newly-enlarged Europe. Migration was an early and central foreign policy priority. The development of external irregular migration and security mechanisms was the fastest growing policy field in the decade around the ENP.

The broad finding of this more recent scholarship is that in the absence of membership incentives, Europe fundamentally lacks the leverage to foster benign Europeanization in third countries (see Graziano & Vink 2007; Egan et al. 2010; Radaelli & Exadaktylos 2010; Reslow 2012). Without accession’s influence over domestic institutions, it also lacks benchmarking or oversight on

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³ European Commission. July, 2004. Eurobarometer Spring 2004: Public Opinion in the EU. Joint full report of Eurobarometer 61 and Candidate Country Eurobarometer 2004.1 (This excludes Malta, where approval was only 53.3%).
⁴ The binding *acquis communautaire* refers to the corpus of EU law: all treaties, international agreements, jurisprudence, legislation, common visa lists, common standards, etc.
compliance on ostensible rights and governance clauses in migration arrangements. In many authoritarian or autocratic third countries in the “Southern Neighbourhood” benign Europeanization would be tantamount to regime change. Thus in non-candidate third countries domestic compliance costs far outweigh incentives on offer.

Nonetheless, research on third country Europeanization continues to test for benign indicators with the same causal mechanisms of diffusion, emulation, and formal compliance (see Schimmelfennig 2012). Evidence is close to nil for such effects, as would be expected given the incentive structures and fact that the post-Cold War moment in Eastern Europe was a historically unique opportunity to transpose European laws and institutions to willing states.

The reasons for the scholarly path-dependency in continuing to look for benign Europeanization in non-candidate third countries are threefold: first, empirical research designs were developed for enlargements states; scholars used the same tools to examine non-candidate third countries. Second, Europe’s stated foreign policy objectives deserve to be tested. Third, IR scholars in particular seemed somewhat wedded to the notion of Europe as a normative power. In any case, third country benign Europeanization research has largely run its course.

However, this does not imply that European regional integration does not cause changes outside Europe. Far from it. My project expands the Europeanization research agenda to include a wider spectrum of indicators on the dependent variable and different causal mechanisms between the development of the European project and changes at the domestic, regional, and international levels of analysis.

I focus specifically on European irregular migration governance given its central role in the development of the European project, over-representation in EU foreign policy, and extremely high salience for Europe, its peripheries, migrants, and international regimes. As I argued above, Schengen’s compensatory measures are an intrinsic part of European regional integration. Without them, states would not have agreed to remove borders. Without open borders, the common market, European citizenship, and the economic and monetary union would not be plausible. Thus changes caused by Schengen’s compensatory measures are properly understood as indicators of Europeanization.
My independent variable is Schengen’s compensatory measures, which are causally related to my eight indicators of change, encapsulated in the term *Malignant Europeanization*. They are connected by the material causal mechanism of changes in irregular migration systems. Throughout my case studies I begin with observations of changes in irregular migration systems, and examine variation in the eight indicators or outcomes I am investigating. I then test my central hypothesis that changes in irregular migration systems are the result of Schengen’s compensatory measures. I present evidence for Malignant Europeanization, which I define as *insecurity and regressive practices and norms resulting from Europe’s regional integration*.

1.3 Overview of the Project

The project proceeds in six chapters, and covers all irregular migration systems which share Europe as a common destination. These are the Central and Eastern European, Western Mediterranean, Central Mediterranean, and Western Balkan irregular migration systems. My case studies are based on three years of field work in the Middle East and North Africa, the Western Balkans, and Europe.

Chapter 2 lays out the theoretical framework for the project. After discussing the Europeanization research agenda, I move on to provide a robust explanation for Malignant Europeanization and explain my eight indicators for Malignant Europeanization. I then move on to literature from Migration Studies, Comparative Politics, International Relations, and Security Studies to draw a picture of irregular migration systems and situate my project in empirical findings on the migration / security nexus. While there is robust evidence for security implications of forced migration and refugee flows, to the best of my knowledge mine is the first to make the connection to a systematic study of irregular migration. I then discuss my case selection, methodology, and field research. I close the chapter by presenting my hypotheses and important intervening variables.

Chapter 3 provides a history of Schengen’s compensatory measures and changes in irregular migration systems. I open with Europe’s 2015 migration crisis, when irregular migration across the Central Mediterranean to Italy and through the Western Balkans dominated the global news cycle. Europe responded with a series of crisis measures, grand plans for migration management in third countries, renewed calls for Member State solidarity and burden-sharing. I situate these dynamics in the broader history of Schengen’s compensatory measures to illustrate that the crisis and Europe’s responses were the result of a decades-long process.
I then return to the end of the Cold War when irregular migration and asylum crises coincided with treaty-making processes and the development of supranational competences over external migration relations. I argue that states uploaded domestic concern for migration and borders to the supranational sphere, bundling them in securitized policy-making along with issues like organized crime and terrorism, which drove external migration policy. I argue that changes in Europe’s immigration and asylum policies, and influence on the international refugee regime created the market incentives for irregular migration to Europe. I close the chapter by widening the scope to look at concurrent post-Cold War changes in refugee and migration flows.

Chapter 4 bridges my historical analysis with my empirical case studies. It explains how securitized policy orientations inform the EU’s external migration controls and in fact structure the range of policy options. In distinction to constructivist or discursive securitization theories, I argue the policy area was bureaucratically securitized. I rest the claim on competences inside the EU institutions, and examine the role of the European Commission in external migration governance. I then detail the EU’s somewhat complicated (and convoluted) bilateral, multilateral, and regional consultative processes for external migration governance. I close the chapter by contrasting Europe’s influence on accession and candidate states on the one hand, and third countries on the other.

The subsequent three chapters present case studies on the Central and Eastern European (CEE), Western Mediterranean, Central Mediterranean, and Western Balkans irregular migration systems. My project is the first, to my knowledge, to comprehensive study the irregular migration systems spanning Europe’s peripheries. I use irregular migration systems as the unit of analysis, and thus each spans several states and different geographical regions. Case studies provide evidence for Malignant Europeanization as a result of Schengen’s compensatory measures.

Chapter 5 presents a paired historical case study of the effects of Schengen’s compensatory measures in the CEE and Western Mediterranean irregular migration systems from the end of the Cold War to the contemporary period. The paired case studies proceed in broad strokes since the cover a period of over fifteen years across a number of states and all malignant Europeanization indicators. The systems were the first sites of Schengen’s compensatory measures, and differ as much as possible in terms of incentives and compliance. While in the CEE system Malignant Europeanization was largely mitigated by fundamental transformations to domestic structures amounting to bening
Europeanization, in the Western Mediterranean incentives were not sufficient to foster fundamental domestic transformations and Malignant outcomes were far more severe. I use the historical cases to frame my subsequent cases on the Central Mediterranean system, which is comprised of third countries, and the Western Balkans system, which is comprised entirely of Member States and accession states. The main findings are that endogenous factors including regime type, state strength, and the characteristics of irregular migration facilitators act as intervening variables for the severity of Malignant Europeanization. Malignant Europeanization is observed in both cases, even when tempered by benign Europeanization. The presence of credible membership incentives is a necessary condition for benign Europeanization.

Chapters 6 and 7 are case studies on the Central Mediterranean and Western Balkans Irregular Migration Systems. Findings are based on three years of fieldwork in Israel and Egypt; Serbia, Macedonia, Hungary, and Croatia; and at EU and UN institutions in Brussels, Vienna, and Warsaw. Whereas my comparative case proceeds in broad strokes, my discussion of European influence on the Central Mediterranean and Western Balkan system pays close to particular incidents of changes in irregular migration systems and resulting insecurity and regressive practices and norms.

Chapter 6 presents a case study of the Central Mediterranean system, which spans sending and transit state in Central, East, and North Africa. I spent roughly two years in Israel and Egypt speaking with migrants on the route. With the exception of the 2015-2016 migration crisis and a brief period after the Arab Spring, it is by far the most travelled system to Europe. The system is comprised of “complex mixed flows,” wherein refugees and migrants move along the same routes. The case pays specific attention to Italian and EU relations with Libya. I show that a 2008 deal between the EU, Italy, and Libya effectively closed the Central Mediterranean crossing, trapped migrants, and shifted the flow toward the Egyptian Sinai and eventually Israel. The Sinai was the site of rather horrific trafficking involving systematic torture and extortion. The system shows by far the worst outcomes for the security of migrants, transnational criminal organizations, and entrenched authoritarianism across my cases. It is the single case where Malignant Europeanization included emboldened militarized non-state actors in Egypt, Libya, and Sudan. Pushing flows to Israel caused significant domestic political contestation. The central lessons of the chapter are that Schengen’s compensatory measures are demonstrably the cause of pushing flows to more dangerous routes, and that in the case of the deal with Qaddafi, strong, authoritarian leaders with little regard for rights can
effectively halt and divert irregular migration flows. The latter lesson is important for the EU/Turkey deal which effectively closed the Western Balkan route in 2016.

Finally, Chapter 7 presents a case study of the Western Balkans irregular migration system, which includes Turkey, Greece, Bulgaria, Macedonia, Serbia, Hungary, Croatia, and Slovenia with destination states in Western and Northern Europe. The case is unique in that is comprised entirely of Member and accession states. I spent six months throughout the system at the height of the migration crisis, from early June to late December, 2015. The case shows significant evidence for migrant insecurity, corruption, and domestic political contestation. The most counter-intuitive finding is that Schengen’s intra-EU compensatory measures, comprised of burden-sharing and solidarity mechanisms between EU Member States, incentivized the most significant burden-shifting, regional tensions, and international norm degeneration among my cases. States in the system, particularly Hungary, leveraged the crisis to mobilize anti-EU sentiment toward state capture and to become a regional leader in regressive practices and norms. The migration crisis transformed into a crisis of the European project as states closed borders and openly defected from burden-sharing. The most important finding for the project as a whole is that the EU had virtually no leverage over Member States during a mass influx, which was the central purpose of intra-EU compensatory measures. A mere twelve years after the glowing success of enlargement, CEE states have experienced significant democratic backsliding, casting a pall over the longevity of benign Europeanization.

My Conclusion draws out variation between my cases across my eight indicators, and discusses the key intervening variables in each case. I present eight general findings. I follow this overview with a section on large-scale policy alternatives given that my analysis largely finds that Schengen’s compensatory measures have been ineffective or generated outcomes which stand in sharp contrast to Europe’s stated foreign policy objectives. I close with implications for future research.

Chapter 2 Introducing Malignant Europeanization: Schengen’s Compensatory Measures, Irregular Migration Systems, and Security
2.1 Introduction: Schengen, Compensatory Measures, and Irregular Migration

Europeanization refers to changes in domestic politics and institutions as a result of European integration. My central argument is that Europe’s open border and free mobility regime, the Schengen regime, is fundamentally predicated on “compensatory measures” at external borders and externalized policies in third countries to prevent irregular migration from affecting the Schengen area. Schengen’s compensatory measures cause changes in irregular migration systems, which result in insecurity. Given that the Schengen regime is a constitutive element of the European project, and is predicated on compensatory measures, observed outcomes of compensatory measures are properly understood as instances of Europeanization. While to date the Europeanization literature has focused on evidence for what I call benign Europeanization, I argue for a more capacious set of indicators of change as a result of European regional integration to include Malignant Europeanization.

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<th>Independent Variable:</th>
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<td>Causal Mechanism:</td>
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<td>Dependent Variable:</td>
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This chapter lays out my project’s theoretical framework. The first section fleshes out my argument for Europeanization as the dependent variable. I begin by discussing the Europeanization research agenda in general, move to discuss Europeanization beyond Europe, and then argue that work on “compliance” and “rule adoption” as causal mechanisms, looking exclusively at benign indicators for Europeanization, is largely inapplicable to the case of Europe’s irregular migration governance. I then introduce malignant indicators for Europeanization, and present a schematic of observations from my case studies. In the next section I discuss the migration / security nexus. I first explain what is entailed by the term “irregular migration system” to show the material connections between Schengen’s compensatory measures and changes in irregular migration systems. I then discuss evidence from Comparative Politics and Security Studies on the connections between refugee flows and security. I argue that changes in irregular migration systems generate observable insecurity at various levels of analysis consistent with findings on refugee flows and security. The third section explains my case selection and methodology. Rather than traditional levels of analysis, my case studies are framed around the three irregular migration systems which share Europe as a common destination. I make the case for using qualitative methods to investigate hypothesized causal
mechanisms since I am both building a theory and looking at a small number of cases. I then briefly introduce my field-work, data, and analytic framework. I conclude with theoretical implications. I offer a brief overview of variation between cases.

2.2 Europeanization as Dependent Variable

The choice to frame this project through the lens of Europeanization takes as a given contemporary Europe’s unique historical, institutional, and geopolitical characteristics. Its influence and policy objectives, in large part, are dictated by domestic sentiment around integration. Perhaps nowhere is this truer than in the field of human mobility. While I explore the connections between domestic politics, European integration, and Schengen’s compensatory measures in detail in Chapters 2 and 3, it is worth noting that Europe’s open border and free mobility regime were always predicated on strengthening external borders and influencing third countries to contain unwanted migrants.

For a time, the official plan was to do so, as encapsulated in the European Neighbourhood Policy, was to foster a zone of liberal peace around Europe’s peripheries. As stated in the 2003 European Security Strategy, “The best protection for our security is a world of well-governed democratic states. Spreading good governance, supporting social and political reform dealing with corruption and abuse of power, establishing the rule of law and protecting human rights are the best means of strengthening the international order” (European Council 2003). As I argue below, scholarship on Europe’s influence has largely focused on testing these claims.

My central claim in this section is that the spectrum of Europeanization as a dependent variable should be expanded to include all observable impacts of Europe’s regional integration. More precisely, and in contrast to Europe’s stated foreign policy objectives, I claim that European regional integration has caused significant negative security repercussions around its peripheries. I call this phenomenon malignant Europeanization, which I define as insecurity and regressive practices and norms resulting from Europe’s regional integration. To be clear, these observed effects are not merely negative externalities from botched migration deals, but are the result of intrinsic compensatory measures for Europe’s open border and free mobility – a constitutive part of the European project. As such, European regional integration remains the independent variable. I emphasize insecurity in deliberate contrast to the predominant focus on benign Europeanization. I include Member States, accession states, and third countries in my analysis. My focus on the
irregular migration policy field does not preclude malignant Europeanization in other issue areas, though these are beyond the scope of my study.

2.2.1 The Europeanization Research Agenda

I use Europeanization to refer to the degree to which European regional integration affects states’ domestic politics, institutions, policy processes, and normative orientations (e.g., Featherstone 2003; Schimmelfennig 2009; Radaelli & Exadaktylos 2010). Europeanization falls within the broader regionalization agenda, which “refers to processes and structures of region building in terms of closer economic, political, security, and socio-cultural linkages between states and societies that are geographically proximate. In political science, regionalism is often used synonymously with regional cooperation and integration” (Börzel 2013: 503). In short, Europeanization is concerned with processes of domestic adaptation to regional integration. Despite Brexit and the democratic decline and anti-Brussels sentiment in Central and Eastern Europe, the EU represents the most significant instance of regional integration in terms of breadth (i.e., the number of policy areas dealt with) and depth (i.e., the political authority of regional institutions and penetration into domestic politics). For better or worse, comparative studies of regionalism are largely derived from the European experience (Acharya 2012).

Early work on Europeanization was largely taken up with debates over definitions and the utility of the term (see Olson 2002). More substantive debates between neofunctionalist (e.g., Haas 1958; 1961; Pierson 1996), institutionalist (e.g., Schneider & Aspinwall 2001), constructivist (e.g., Parsons 2003; Checkel 2005), and intergovernmentalist (e.g., Moravcsik 1998) approaches centred on whether the driver of integration was top down or bottom up, or whether state decision-making was based on logics of appropriateness or consequence. Beyond causal mechanisms, the fundamental points of contestation were how regional integration would affect the power of states, to what degree states would yield sovereignty to supranational institutions, and how this would affect the balance of power over European policy-making and institutional design. While history continues and these debates will never be fully settled, the combined legislative power and political salience of the European Commission, European Parliament, and Council of Europe, jurisdictional power of the European Court of Justice and European Court of Human Rights, and control over monetary policy and foreign currency reserves of the European Central Bank illustrate the significant degree to which European integration has affected issue areas traditionally recognized as core competences of
sovereign states. The removal of systematic border controls, freedom of movement, access to labour markets, and rights of residency through the Schengen area represents an equally significant example of Europeanization.

In short, there is no longer much debate about the importance of Europeanization as a topic of study. Research has moved on to studying its differential effects across issue areas and between states, and methodological issues for the EU or the European project as the independent variable (see Caporaso 1996; Haverland 2009). As Olsen argues, understanding Europeanization is about conceptualizing and investigating processes of change (2002). In particular, the literature explores changes in political boundaries, the development of centralized institutions, supranational penetration into national systems of governance, and the ways in which Europe interacts with the rest of the world. One of the central findings is that processes of change are not homogenous, but rather that states and regions exhibit different degrees of Europeanization and different paces of change.

2.2.2 Europeanization beyond Europe: Accession States & Third Countries

The 2004 and 2007 enlargements in Central and Eastern European (CEE) have provided the richest vein for studying Europeanization beyond Europe. The “big bang” enlargements are often referred to as the most successful instance of EU foreign policy (e.g., Hadfield 2009; Bindi & Angeleescu 2012; Grabbe 2006, 2014; Lavenex & Schimmelfennig 2009). Fundamental domestic changes toward European norms, laws, and institutions and the incorporation of the acquis communitaire in post-Warsaw Pact states no doubt represent transformative historical moments. Enlargement validated the EU’s self-image as a “normative power,” not least because changes were (mostly) the result of positive incentive structures instead of material or economic coercion. The CEE states also represent good causal tests since the EU and Member States had developed clear conditionality criteria for membership and because the scope of change from socialist to EU policy was well-documented (Grabbe 2003; Gateva 2015).

Post-enlargement scholarship has come to a relatively clear consensus that membership incentives were a necessary condition for rule adoption and compliance; compliance timing depended on whether benefits of membership exceeded domestic adoption costs (see Schimmelfennig & Sedelmeier 2005; Grabbe 2006; 2014; Caporaso 2008). Hierarchical conditionalities meant European Commission progress reports dictated the pace and scope of accession. Gateva’s (2015) stage-
structured conditionality model identifies three key elements of conditionality at each stage of the accession process: prerequisites for application; an incentive structure based on an explicit and implicit reward-threat balance; and monitoring (see Table 1.3 pp29-30). The EU relied on implicit threats of stalled accession and financial rewards for progress toward membership (ibid: 59).

Schimmelfennig & Sedelmeier’s 2005 The Europeanization of Central and Eastern Europe is a pivotal volume, before which the impacts of conditionality were largely assumed. They develop an external incentive model and contrast it with the more constructivist social learning and lesson-drawing models. The book achieves its analytic traction through a minimalist conception of Europeanization wherein “rule adoption” is the dependent variable and domestic political costs the key intervening variable. Their main finding is that:

[I]dentification and resonance cannot explain the variation in rule adoption. Generally, identification with the European and the wider western international community is high in the candidate countries and among their political elites. The “return to Europe” has been their most important post-communist foreign policy orientation. We claim, however, that strong identification is not sufficient for rule adoption but must be complemented by low domestic adoption costs (ibid: 34 emphasis added).

CEE states underwent significant structural changes for a decade before formal accession. Differentiation occurred in terms of how much of the acquis was to be adopted during candidacy or the post-accession transitional period (Grabbe 2003: 304). The 1999 Amsterdam Treaty incorporated the Schengen acquis, meaning accession states would have to not only incorporate the EU’s legal frameworks, but also comply with the technical aspects of border and migration controls as a prerequisite for membership.

Fundamentally, however, accession research privileges analysis of benign Europeanization, specifically rule of law, governance, rights, and economic reforms, as well as institutional isomorphism (e.g., Schimmelfennig et al. 2003; Knill & Lenschow 2005). Research is also limited by a focus on official agreements rather than norm internalization, post-accession compliance, or enforcement from the EU (Börzel & Risse 2009). Reviews find that there are few empirical research projects on variation between actual compliance (e.g., Haverland 2007; Börzel 2013). The main findings on variation show that domestic political factors and the political salience of the issue area to EU member states play key roles in the degree of genuine reform and the adoption of European norms (Schimmelfennig & Sedelmeier 2007). Domestic factors as an intervening variable and political salience to EU Member States are crucial for analyzing Europe’s influence on peripheral
transit states, and how those states are affected by and respond to changes in irregular migration systems, a point to which I return below.

Predominantly intra-Europe Europeanization is a 20th century phenomenon. Historically, Europeanization was understood in terms of its global effects, particularly through the export or diffusion of European institutions, norms, interests, values, and customs. The global diffusion of the sovereign state model is a case par excellence. Earlier forms of diffusion were often overtly coercive. As Olsen argues, “In practice, the spread of European models has sometimes taken the form of colonialization [sic], coercion and imposition. European institutions have penetrated and destroyed the traditions and institutions of other continents” (2002: 938). While overt imperialism no longer plays a role in EU foreign policy, its geographical position and relative distribution of capabilities means Europe plays a strong and asymmetrical role on its near abroad. It is also the reason why it is the end destination of hundreds of thousands of irregular migrants per year.

My claims about Malignant Europeanization are firmly rooted in the most influential literature. Although Europeanization was first use to explain outcomes in Member States and later in accession states, “its dynamics can also be extended to [third countries] in so far as they refer to a process of change in national institutional and policy practices that can be attributed to European integration” (Hix & Goetz 2000: 27). Europe’s influence should be measured both beyond its territorial extension and functional reach, since Europe’s “external governance extends the impacts of its rules (‘Europeanization’) beyond its membership,” (Grabbe & Sedelmeier 2010: 376). This is true both for candidates and third countries. However, “the crucial distinction [and analytic goal] lies in the question of how these changes can be attributed to European integration,” (Lavenex & Ucarer 2004: 419 emphasis added). In this sense positing Europeanization as a dependent variable follows from the observation that Schengen was the catalyst for Europe’s externalized migration controls.

Schimmelfennig’s review of the “Europeanization beyond Europe” literature portrays externalization as a mix of conditionalities, incentives, and socialization processes. He argues that the contours of external Europeanization are dictated by the objective of “promoting regionally integrated liberal democracies beyond its borders,” (2009: 10). Research on Europeanization beyond Europe is thus still focused on benign dependent variables, and emphasizes policy diffusion and emulation as the causal mechanism for processes of domestic change (e.g., Dobbin et al. 2007; Arcarazo & Geddes 2014).
The “Normative Power Europe” (NPE) research agenda represents the maximalist account of benign Europeanization. It frames Europe’s influence on international relations through its potential as an historical exemplar of progress (Whitman 2011). NPE should be understood in the context of wider Critical Theory insofar as it argues that Europe’s influence is potentially transformative insofar as the EU represents an aspirational development in the practices of world politics (e.g., Manners 2002; 2008; 2010). NPE’s proposed diffusion mechanisms are thus entirely ideational (see Saurugger 2014: 220-221). Unfortunately, there is scant evidence for NPEs claims, and no satisfying empirical research to measure it (Hyde-Price 2006; Balfour 2012).

Any realistic account of Europeanization must recognize the inherent power differentials and politics of Europe’s external relations. To quote Olsen again: "Diffusion of forms of political organization is unlikely to reflect solely the attractiveness of European templates. Diffusion processes involve the distribution of power and status. They also take place within a framework of resources and capabilities, incentives and sanctions” (ibid: 939). The distribution of resources between the EU and its peripheries, coupled with the material facts of irregular migration systems, necessarily draws Europe and peripheral transit states into an interdependent, asymmetric relationship.

A number of research projects focus specifically on the externalization of the EU’s Justice & Home Affairs (JHA) policies (e.g., Lavenex 2006; Wichmann 2009), since “despite their difference [what scholars] strive to understand is essentially similar: how instruments primarily crafted for domestic purposes play out in non-Member states,” (Balzacq 2009: 1). The fact that Member States’ interior ministries drive external policy-making around migration is telling in regards to Europe’s normative commitments to relations with transit states. Interior ministers are concerned with domestic security and electoral survival. While the European project might, indeed, represent progress in international relations, strategic interests and domestic politics demonstrably play a much more outsized role in European irregular migration governance.

2.2.3 The Limits of “Compliance” & “Rule Adoption” as Dependent Variables

In 2004, the same year as the first Eastern enlargement, the EU unveiled the European Neighbourhood Policy (ENP) as an overarching foreign policy framework for Europe’s external relations. While discussed in detail in subsequent chapters, suffice it to say at this point that its
conditionality-based policy mechanisms and normative tone were directly modeled on accession processes (Kelley 2006; Weber & Smith 2007; Hadfield 2007; Börzel & van Hüllen 2014). This orientation became entrenched in the EU acquis. Article 8(1) of the Lisbon Treaty (2010) states: “The Union shall develop a special relationship with neighbouring countries, aiming to establish an area of prosperity and good neighbourliness, founded on the values of the Union and characterized by close and peaceful relations based on cooperation.” In fact, the EU has been applying political and rights conditionality to relations with third countries since the 1980s (Börzel & Risse 2009). The 1990 Rome Summit made democracy and rights promotion a key principle of European foreign policy (Gateva 2015).

The ENP ostensibly aimed to extend Europe’s normative influence into third countries, i.e., to foster change in domestic politics and institutions, but with a radically different incentive structures and oversight than in accession processes. As a top EU civil servant with experience in both the Commission and Council told me: “the issue with the ENP is that we’re using tools that were useful in the East, on the South, but there’s no measure for compliance.” Respondents from across EU institutions echoed the lesson that the EU’s aspirations for domestic transformation were not supported by sufficient incentives, rendering conditionality a weak policy for dealing with third countries.

Credible membership incentives have been a necessary (though not sufficient) condition for effective Europeanization around democracy and human rights in accession states; though as the contemporary cases of Poland and Hungary illustrate, they do not preclude backsliding (Kmezić 2015). Membership incentives do not exist for third countries engaged through the ENP or other external mechanisms. Using Freedom House and TIP data, Maier & Schimmelfennig (2007) illustrate that EU conditionalities have had very limited effects on democratization and human rights protections in ENP partner states. “As long as membership incentives are absent and the ENP participants are governed by authoritarian regimes, there is no reason to expect that the ENP will have a more positive impact on democracy and human rights in the partner countries in the future” (Maier & Schimmelfennig 2007: 40). In many cases, compliance for authoritarian states would be tantamount to regime change.

2.2.4 Malignant Europeanization

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The glaring question, from a scholarly perspective, is why we continue to test for dependent variables around benign Europeanization when the majority of evidence seems to militate against it? The answer, I argue, is a combination of official discourse and academic path dependence. EU official discourse, as evidenced by European Council and Commission communications, consistently emphasizes rights and governance conditionalities. This is particularly the case for the irregular migration policy field. Official claims ought to be investigated as a matter of course. The other factor is that causal models derive from the historical experience of enlargement in Central and Eastern Europe. The lessons from enlargement are then transposed onto relations with third countries to test similar hypotheses.

For example, Lavenex & Schimmelfennig claim that exploring the differential effects between accession and third countries will “help us to answer the ‘big question’ of external governance: to what extent is the EU able to integrate its external environment into common systems of rules?” (2009: 792). The main failing of this research is that it continues to test hypotheses around the same benign dependent variables, and takes “the transfer of rules as [the] point of departure” for causal analysis (795). The overwhelming weight of evidence shows relationships with third countries are not much like relationships with accession states in terms of interests, interactions, or outcomes. In this light, rule transfer is largely out of the question, there is little to no evidence for effective governance or rights conditionalities, and the historically unique case of Eastern enlargement tells us little about relations with third countries around irregular migration governance.

Europe’s foreign policy efforts have not been wholly ineffective, rather, they fail to reach the high bar of comparison to enlargement Europeanization. Freyburg et al. (2009) show that in limited instances the EU has been able to promote democratic governance provisions in non-democratic third countries through direct collaboration (or tutelage) at the sectoral level between EU and third country civil servants.\(^6\) In some cases, for instance in Morocco, Senegal, or Mauritania, there is observed rule adoption if we limit the frame of analysis to the letter of law, given that these states transposed domestic law around irregular migration from France and Spain. The same is true, to a certain extent, in Western Balkan states, as described in Chapter 6. But formal rule adoption in no

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\(^6\) Freyburg et al. define democratic governance (in contrast to democracy) along three qualitative dimensions: transparency, accountability, and participation.
way equates to compliance, much less good governance or norm diffusion. Bureaucratic cooperation and legal transposition are low bars in comparison to Europe’s ostensible transformative power.

Scholarship more often illustrates that there is little evidence for compliance in third countries. As Longo argues of the EU’s influence on Mediterranean region: “all the scholars involved in the analysis of the Barcelona Process [a regional migration dialogue] agreed that the ENP has failed to promote democracy, good governance, and respect for human rights in the area” (2012: 92-93). Likewise, Maier & Schimmelfennig’s comparative analysis finds that “In sum, the EU has had no significant positive impact on the overall political and human rights situation in its neighbouring and non-candidate countries” (2007: 56). My field research with EU policymakers echoed these findings. As a respondent from DG Home told me, “The Commission works on both accession negotiations and traditional foreign relations with third countries. It’s absurd to assume we don’t understand the difference in leverage. The bottom line is it’s just not there. We don’t have any cards. We can’t turn North African states into democracies. But we still have to work with them.”7 Europe’s more recent migration relations with post-Arab Spring authoritarian regimes illustrate this dynamic quite clearly.

In fact, the Arab Spring and subsequent Syrian Civil War were major turning points for the ENP. For a short time Europe doubled-down on its conditionality approach through the so-called “more for more” approach to offering aid in exchange for democratic transition. But subsequent coups and authoritarian retrenchment, coupled with increasing irregular migration pressures, illustrated that the ENP could not fulfill its goals of replicating the democratic transitions of post-Cold War enlargement. The benign Europeanization aspirations of the ENP and the domestic character of regimes in Europe’s Southern neighbourhood meant the EU had potentially bound itself to an inherent dilemma wherein democratization, at least in the short term, would undermine stability, increase migration, and therefore open the space for more pronounced anti-immigrant sentiment in Europe (Börzel & van Hullen 2014: 1034).

It is thus not surprising that the EU and most Member States only reluctantly endorsed popular movements for democratic change throughout the region. IR Realist critiques of both enlargement and the ENP argue that Europe’s “normative power” status has always been tempered, and even driven by, strategic interest. The absence of the threat of hard power means it has relied on conditionalities and prestige even when incentives are lacking (Hyde-Price 2006; 2008). Noutcheva

claims that the EU’s external governance framework mirrors Brussels’ somewhat messy bureaucratic politics and Member State differences. It thus lacks coherence between its grand plans and program implementation, leading to an exploitable oscillation between normative and strategic influence. The strong assertion of neither relegates the EU to the role of a bystander “passively reacting” to crises “by proposing long-term solutions with little short-term impact” (Noutcheva 2015: 19). The transformative power of the ENP is thus rendered mostly aspirational.

These lessons from scholarship are also apparent in recent changes in EU foreign policy. On 18 November, 2015, the Council endorsed of the Commission’s long-awaited strategic review of the ENP in the wake of the lessons of the Arab Spring. The new ENP all but abandoned the goal of fundamental transformation toward a more “pragmatic” and “differentiated” approach to third country relations, particularly in respect to authoritarian states around irregular migration governance (Blockmans 2015). As the European Council on Foreign Relations stated, “There was a realization in Brussels and capitals that the neighbourhood policy had clearly not led to a prosperous and stable “ring of friends” as hoped for when it was first launched in 2004.”8 The new ENP mainstreams migration and asylum cooperation into all bilateral and multilateral frameworks, but abandons rights and good governance prerequisites for cooperation, meaning that autocratic or authoritarian states will no longer face lectures around human rights or civil society protections when signing migration-related agreements.

The Council communication coincided with my final round of interviews in Brussels from November to December 2015, and presented the opportunity to discuss Europeanization scholarship and the new ENP with Council and Commission personnel, particularly the discrepancy between the EU’s normative power approach and the realpolitik of the new ENP. A highly-placed civil servant in the Council told me, “The deterioration of our peripheries has shown us that open markets and norms aren’t going to create security [...] now we realize that there are other, more basic issues that need to be addressed first. Even the whole idea of good governance is being dropped as a priority. Stability is what matters.”9 Likewise, a civil servant from the Commission working on security sector reform argued that “the new ENP is [...] a response to the new realities around our peripheries. I suppose in this sense we failed to foster security, but I don’t think that was ever going to happen. The bottom

line is stability. We’re putting aside some of the previous hopes we’d had out of necessity.”¹⁰ If one of the reasons for the focus on benign Europeanization stems from testing claims about Europe’s transformative power, and if high-level policymakers in the EU are to be trusted, then the focus of scholarly inquiry deserves substantial revision.

The increasingly volatile character of Europe’s neighbourhood means a choice between stability and democracy. Somewhat tragically, the Arab Spring and subsequent migration crises showed that the two are often mutually exclusive. As my case studies around Libya and Turkey illustrate, strong authoritarian or autocratic leaders can stop irregular migration flows. The EU does not offer sufficient incentives to affect benign Europeanization in third countries. There is thus very little analytic traction in applying the same causal mechanisms for diffusion or emulation in third countries since these were only possible in accession states through direct oversight, objective benchmarking, and transfer of EU legislation.

This does not imply that we should abandon research on Europeanization beyond Europe. Rather, the causal mechanisms and dependent variables from European integration deserve a more capacious scope of analysis. It also implies that we should expand the scope of how we conceptualize Europeanization in accession states beyond benign changes. I define Malignant Europeanization as insecurity and regressive practices and norms resulting from Europe’s regional integration. I emphasize insecurity and regressive practices and norms for three reasons. First, observed insecurity stands in sharp contrast to fostering stability as implied in the ENP and the Europeanization research agenda. Though normative influence provides a novel means for Europe’s influence, its desired ends are security and stability and are thus no different than a ‘realist’ foreign policy orientation. Security remains the bottom line. I emphasize regressive practices and norms in contrast to the goal of fostering liberal, democratic, and rights-promoting states around Europe’s peripheries. Second, for International Relations scholarship, the European security community stands as an example of progress in the international system (Adler & Barnett 1998; Linklater 2007; Adler 2010; Walker 2010). I illustrate that that progress is, to a significant degree, predicated on insecurity around Europe’s peripheries. Third, my model begins with empirical observations of insecurity and regressive practices and norms as a result of changes in irregular migration systems, and then asks whether these are causally related to European regional integration, and why the impacts vary across states.

My research points to eight distinct, though interrelated indicators for *Malignant Europeanization* at all levels of analysis: insecurity and predation of migrants; security sector corruption; domestic political contestation; entrenched authoritarianism and democratic backsliding; emboldened militarized non-state actors; market incentives for transnational criminal networks; inter-state and regional tensions; and the erosion of international norms. Observations of these outcomes vary in degree between cases, though are present in all cases. I explore these in depth below and elaborate on indicators in my case studies. Clearly, the scope of analysis is broad, but so too is the issue area, and I argue that my findings have significant consequences for theoretical and practical claims about Europe’s global influence.

**Fig. 2.1: Malignant Europeanization Indicators**

<table>
<thead>
<tr>
<th>Phenomenon</th>
<th>Level of Analysis</th>
<th>Empirical Observations</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Migrant Insecurity</strong></td>
<td>Individual</td>
<td>-Higher fatality rates</td>
</tr>
<tr>
<td></td>
<td></td>
<td>-Torture / abuse</td>
</tr>
<tr>
<td></td>
<td></td>
<td>-Longer routes</td>
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<tr>
<td></td>
<td></td>
<td>-More dangerous routes</td>
</tr>
<tr>
<td></td>
<td></td>
<td>-“Trapped migrants”</td>
</tr>
<tr>
<td><strong>Prevalence of Transnational Crime</strong></td>
<td>State / Regional</td>
<td>-Prevalence of trafficking over smuggling</td>
</tr>
<tr>
<td></td>
<td></td>
<td>-Shifting from licit to illicit trade</td>
</tr>
<tr>
<td></td>
<td></td>
<td>-Shifting smuggling models from goods to people</td>
</tr>
<tr>
<td></td>
<td></td>
<td>-More complex and networked smuggling and trafficking rings</td>
</tr>
<tr>
<td><strong>Security Sector Corruption</strong></td>
<td>State</td>
<td>-Collusion with criminal actors</td>
</tr>
<tr>
<td></td>
<td></td>
<td>-Weakened border controls</td>
</tr>
<tr>
<td></td>
<td></td>
<td>-Collusion with militarized non-state actors</td>
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<tr>
<td></td>
<td></td>
<td>-Direct extortion / abuse</td>
</tr>
<tr>
<td><strong>Emboldened Militarized Non-State Actors</strong></td>
<td>State / Regional</td>
<td>-Direct funding from smuggling / trafficking</td>
</tr>
<tr>
<td></td>
<td></td>
<td>-Increased anarchy in border areas</td>
</tr>
<tr>
<td></td>
<td></td>
<td>-Direct state contestation &amp; territorial control</td>
</tr>
<tr>
<td><strong>Domestic Political Contestation</strong></td>
<td>Individual / State</td>
<td>-Increased nativist sentiment</td>
</tr>
<tr>
<td></td>
<td></td>
<td>-Incitement by incumbents and challengers</td>
</tr>
<tr>
<td></td>
<td></td>
<td>-Repealing civil liberties and state discrimination against migrant-centric civil society</td>
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<tr>
<td></td>
<td></td>
<td>-Anti-migrant violence</td>
</tr>
</tbody>
</table>
Entrenched Authoritarianism & Democratic Backsliding

<table>
<thead>
<tr>
<th>Category</th>
<th>Type</th>
<th>Features</th>
</tr>
</thead>
</table>
| Individual / Regional | - Payoffs to autocratic leaders  
| | - Changes in domestic security laws for purposes of migrant containment  
| | - Issue-area seizure for political gain  
| | - Leveraging European resources for domestic consolidation  

Burden-Shifting & Interstate Tensions

<table>
<thead>
<tr>
<th>Category</th>
<th>Type</th>
<th>Features</th>
</tr>
</thead>
</table>
| State / Regional | - Unilateral border closures  
| | - Pushbacks & beggar-thy neighbor wave-through policies  
| | - Trade sanctions  
| | - Diplomatic sanctions  
| | - Retributive non-engagement with migration flows  

Norm Degeneration

<table>
<thead>
<tr>
<th>Category</th>
<th>Type</th>
<th>Features</th>
</tr>
</thead>
</table>
| Individual / International | - Mainstreaming rightwing populism  
| | - Indefinite migrant detention  
| | - Repealing of refugee status determination  
| | - Non-differentiation of asylum-seekers and migrants  
| | - Militarized migration controls  
| | - Réfoulement  

Migrant Human Security

Irregular migration flows tend to follow paths of least geographical and political resistance. Route changes can often draw weaker, less liberal, less stable states into irregular migration systems. They can likewise change the scope and pace of a flow through a given transit state. As a coordinator for Frontex actions on external borders noted, “Without a doubt the effectiveness of our strategies means the flows shift around. Of course there is an increased burden on third countries because of the increased efficiency of our external borders. But it’s not only [the result of] effectively controlling Europe’s external borders. We need the third countries to cooperate. How could it be any other way?”\(^\text{11}\) However, robust controls and Europe’s external borders and changes in transit state policies as a result of European incentives can “trap” migrant populations in transit states, often in major urban centres or in informal camps along borders. It is telling that irregular migrants in both Calais on the French / UK border and on the Moroccan / Spanish border refer to their informal encampments as “The Jungle.” My findings on shifting routes come from field research with migrants about their route choices, interviews with rights groups and IGO personnel, academic literature, and reports from international organizations.

My most consistent finding is that physical changes in migration systems or transit state policies cause more severe, varied, and frequent insecurity for migrants. Journeys become longer, more fragmented, and deadlier. Migrants can often become “stranded” in weak or authoritarian transit

\(^{11}\) Interview with Commission Personnel (Frontex Liaison). May, 2013. Brussels.
countries where the lack of international protection makes them intensely vulnerable to abuse (Collyer 2010). Likewise, when migrant routes shift or are temporarily closed, smuggling activities can quickly mutate into abusive trafficking. When transit states are incentivized to contain migration flows, or make unilateral policy decisions to do so, migrants generally report more abuse at the hands of smugglers, state security officials, and employers. A large number of migrants along all routes have reported physical and sexual violence, extortion, torture, unlawful imprisonment, forced or indentured labour, and being dumped or pushed back over borders.

Transnational Crime

Irregular migration almost necessarily includes the role of facilitators. Europol report estimates that 90% of irregular migrants and asylum-seekers entering the EU made use of transnational criminal networks. Though their sources, methodology, and political motivations render the figures suspect, the problem of transnational crime is an intrinsic aspect of irregular migration. Despite the (often deliberate) conflation by politicians, smuggling and trafficking are analytically and legally distinct categories, yet they overlap in practice. Smuggling arrangements often change into more abusive forms of trafficking, and the same groups often engage in both. Irregular migration systems are inherently transnational, and facilitators in an original sending area orchestrate money transfers, safe houses, illicit work, bribes and payoffs, and connections with agents in different states.

Europe’s increasingly prohibitive immigration and asylum systems contributed significantly to the development of irregular migration systems in the 1980s and 90s. More effective external border controls and the externalization of migration controls in transit states create more circuitous and difficult routes, thereby increasing demand for facilitators. Transnational criminal groups with existing smuggling infrastructure stepped in to serve demand. While there are distinct smuggling networks in each of the migration systems under consideration in my case studies, they operate along common business models, with cities throughout the systems acting as hotspots for organizing travel to the EU. In some instances closed migration routes have meant decreased revenues, and criminal networks have resorted to kidnapping from camps and cities and trafficking people across borders against their will. Irregular migrants often live outside legal structures and without protection, work in grey or black economies and suffer predation from transnational criminal groups including torture, indentured labour, and sex slavery.
The prevalence of transnational criminal networks, and the fact that in many cases, irregular migrants have to cross not only international boundaries, but also internal checkpoints, necessarily implies the corruption of security services. Respondents from the OECD, UNODC, IOM, and UHCR were careful to differentiate between opportunism and endemic corruption, or, as the literature stipulates, between “low” and “high” level corruption (Heywood 2009). In some cases poorly paid border guards will look the other way, in many cases they are deeply embedded in smuggling rings, and in others high-ranking members of security services and the government are active participants in transnational smuggling and trafficking operations.

Corruption and opportunism generally work hand in hand with the prevalence of transnational criminal activity, but present a specific challenge from the political science perspective insofar as centralized control over security services is generally understood as a metric for state strength. The UNODC argues that “Migrant smuggling, like other forms of organized crime, flourishes where public officials are corrupt. In fact, many migrant smuggling operations would not last long without the steady fuel of corruption in one form or the other” (2013: 1). While there is a question of causality (i.e., does smuggling cause corruption, does corruption create the space for smuggling, or are the two mutually dependent and co-constitutive), the correlation is nonetheless strong. Not only is endemic corruption an indicator of state strength, it changes incentive structures in society and imposes the highest costs on the weakest strata of society.

*Emboldening Militarized Non-State Actors*

At the most severe and obvious level from a state and regional security perspective, transnational crime, corruption of security service, and smuggling operations can overlap with, and serve to strengthen militarized non-state actors. In the Egyptian Sinai, Libya, and the Sahel, armed groups earn significant profits from smuggling of goods, drugs, and people.

These groups represent a hard security threat on several levels. First, different groups compete for market share, which with any transnational, illicit activity means violent contestation for territory or routes, often with implications for civilians, migrants, and state security. Second, militarized non-state actors often carve out autonomous areas of operation and contribute to anarchic regions,
generally near borders, and the direct contestation of state authority. Third, anarchy and militarized transnational groups are important agents in regionally proliferating security threats. Smuggling gangs and militarized non-state actors in the Sahel and North Africa are increasingly taking on fundamentalist Islamic ideology, with an expressed goal of undertaking direct attacks on security services, European civilians, and launching attacks in Europe.

*Domestic Political Contestation*

In almost all cases migration influxes result in disruptive political contestation, including the increased prominence of nativist political groups, violent demonstrations, and a general rightward shift in the political spectrum as incumbent politicians seek to mobilize anti-migrant sentiment for electoral gain. In some cases sitting politicians directly incite and abet anti-migrant violence. Disruptive political contestation often occurs along existing economic or sociopolitical cleavages, and tends to occur in states where the political community and historical narratives are constructed along exclusive religious or ethnic lines. In addition, the domestic political costs of bilateral agreements with the EU are high and can lead to questions about the effectiveness and priorities of a sitting government. While these phenomena exist in other regions not connected to Europe via irregular migration systems, I narrow the scope of findings to on changes in domestic politics when connected to changes in irregular migration systems as a result of Schengen’s compensatory measures.

Disruptive political reactions are not limited to transit states. As illustrated in Chapter 2, the emergence of right wing, anti-immigrant parties in Western Europe was one of the key drivers in closing asylum channels and the emergence of control-based irregular migration policies as these concerns were uploaded to the supranational sphere. In EU transit states rightist political sentiment often tracks closely with anti-EU political platforms. Though of course there are outlier cases – for instance Greece has been a transit country since the early 1990s though only experiences a rightist electoral breakthrough after the 2008 financial crisis. The 2015 migration crisis meant electoral victories for rightist parties in Austria, Poland, Slovenia, and incumbent rightist parties used the crisis to secure electoral support by pushing hardline, restrictive laws as seen in Denmark and Sweden. Hungary’s reaction to the migration crisis, as described in detail in Chapter 6, paints a particularly bleak picture of Malignant Europeanization.
Domestic contestation around irregular migration is one of the most obvious cases where malignant Europeanization is tempered by positive externalities. In Serbia, for instance, civil society came out ahead of nativist political groups to shape the narrative of the migration crisis along recent historical experiences with displacement. Likewise in Israel, the arrival of tens of thousands of irregular migrants became a site of contestation over Jewish historical and religious responsibility to refugees and diaspora groups. In Morocco, rights abuses and bilateral agreements with the EU gave rise to a unique sphere of civil society which spilled over to push for broader human rights reforms. However, these positive outcomes remain, at best, secondary effects of European policy given that they resulted from unforeseen consequence of changing irregular migration systems.

Entrenched Authoritarianism and Democratic Backsliding

European bilateral agreements on migration management often directly support autocratic or authoritarian rulers. A number of respondents from the EU side recounted anecdotes of North African states presenting the Commission or EEAS delegations with “shopping lists” for military and surveillance material, ostensibly for border controls. In the case of pre-civil war Libya, European leaders pushed for the removal of EU sanctions on the Qaddafi regime so that they could openly transfer military and surveillance hardware and directly pay for migrant detention centres. Europe is increasingly willing to “look the other way” in regards to authoritarian retrenchment when governments are necessary partners for irregular migration control. The March, 2016 EU-Turkey migration deal is a well-known case in point, though there is significant precedent for the same type of strategic trade-off across most cases. New regional dialogues, specifically the Khartoum Process with East and North African states including Egypt, Eritrea, and Sudan legitimize authoritarian regimes by engaging them in regional partnership agreements without durable rights conditionalities. Concessions to these types of regimes subsequently undermine European bargaining positions since autocratic governments can then leverage their role by threatening “coercive engineered migration” (Greenhill 2010).

This type of malignant Europeanization also occurs as a knock-on effect of bilateral arrangements and changing migration systems. Where democracy promotion has been part of bilateral arrangements, autocratic leaders in the Southern neighbourhood have incorporated governance reform into authoritarian survival strategies (van Hüllen 2015). Safe third country and readmission agreements also mean that authoritarian leaders can leverage international prestige for domestic gain.
In addition, a sudden influx of migrants as a result of irregular migration routes opens the political sphere to the type of securitized discourse where threats to the political community necessitate a strong response. Autocratic politicians in Hungary, Israel, and Libya have used these influxes to their advantage and to push through emergency powers or changes to domestic laws to cement their control over the political sphere.

*Burden Shifting and Regional Tensions*

Burden-shifting occurs along two axes. Europe’s strengthened external border and bilateral arrangements with transit states directly shift the burden of hosting migrant populations and managing borders. But changes in irregular migration systems also forces transit states to alter their decision-making logic in response to new migration dynamics. A respondent working on operational coordination at Frontex headquarters summed up these dynamics:

> Full externalization to third countries through regional protection programmes and liaison officers would be the cheapest and most efficient way of doing things, and would also build the capacity of transit states. But without a doubt the costs and burdens are shifted. Other countries suffer in the short term if they can be persuaded [to cooperate with the EU]. But then they have the incentive to help push the border one border further so they won’t bear the costs. Externalization operates on its own logic. The goal for Frontex, and for the EU, is to pre-filter at external borders, so we don’t do it on our own. But to do this requires a minimal level of rights in the third countries. And as of now Schengen levels of rights don’t extend past Schengen borders.\(^{12}\)

New transit states often engage in practices such as “hot-returns” or “push-backs” into the previous state in the migration route, or simply let migrants pass through their territory unhindered so as to pass the burden on to the next state. When new states select to block migration flows using fortified borders or other deterrent strategies, migration flows tend to move to paths of lesser geographical or political resistance, which can result in heightened inter-state tensions, particularly in dyads with pre-existing tensions. Somewhat counter-intuitively, the Western Balkans case, comprised entirely of EU Member States and accession states showed the most severe regional tensions.

*International Norm Degeneration*

At the highest level of analysis, Schengen’s compensatory mechanisms generate negative repercussions for international institutions and the erosion of norms around international protection. I

define international norm degeneration as practices which are derogations from the core norms of asylum and international protection as codified in the 1951 Convention and its 1967 Additional Protocol and international humanitarian law. The core norms of the international refugee regime are: offering **access to asylum procedures** without prejudice (other than national security); the norm of assistance recognizing **refugees’ distinctly precarious status** relative to other international migrants; **burden-sharing** which implies assistance to the functioning of international protection regardless of whether a state hosts refugees; and the peremptory norm of **non-réfoulement**, prohibiting states from forcibly returning refugees to a country of persecution (see Skran 1995; Barnett & Finnemore 2004; Loescher et al. 2008; Papagiani 2013). Relevant norms of international humanitarian law include the prohibition of torture, degrading or dehumanizing treatment including assault by state officials, indefinite detention, and lack of access to due process; summary executions; and prohibitions against trafficking, enslavement, and indentured labour.

Beginning in the 1980s and 1990s, proceeding through the intervening two decades, and coming to something of a head in the 2015 migration crisis, Europe has pushed for regional protection programmes in sending and transit areas, incentivized authoritarian states to contain migration flows and take back irregular migrants, and turned a blind eye to behaviour contrary to international protection standards and EU law. In the language of the norms literature, European states with liberal identities and who were architects of the international refugee regime present critical cases for norm degeneration. Fortified borders, offering safe third country status to countries which are anything but, and focusing on containment strategies all undermine the normative basis of the international refugee regime.

Burden-shifting, containment, and externalization have become the norm. As one Macedonian official told me in response to questions around the legality and morality of fencing off their border to refugee flows, “Greece, Bulgaria, Hungary, even Britain have fences. Spain has been doing this for years, but there migrants die when they’re pushed back. We’re just keeping them in a Schengen country. It’s our right.” As a policy-maker in the Commission admitted, “There’s no doubt that our partner countries in the Southern neighbourhood aren’t safe places [for refugees]. No one but the public faces of the EU would ever say such a thing. But if we don’t stop the flows coming through East Africa and Europe falls apart then who will champion the UNHCR? The best case scenario is

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that all these plans are a short term play for the long term survival of the regime.”14 In the Western Balkans case, EU responses to the crisis directly undermined international protection standards and incentivized the practice of réfoulement – returning asylum seekers to a place where they are liable to be subjected to persecution – in abrogation of the peremptory norm of the international refugee regime.

Somewhat perversely, it is through international norm degeneration where Schengen’s compensatory measures result in observable norm diffusion and policy emulation. While I cite specific examples of norm degeneration in my case studies, the majority of the discussion on the metastization of malignant Europeanization beyond Europe’s peripheries is reserved for my concluding chapter.

2.3 The Migration / Security Nexus: Implications for Irregular Migration & Transit States

The securitization of migration is far from novel. Modern European states have periodically restricted mobility across borders since the Napoleonic wars, and the 20th century is rife with examples of internment, refugee push-backs, and instrumental xenophobia. However, the post-Cold War context is characterized by unique conflict dynamics, international regimes, and communication and transportation technologies, which make contemporary migration not only far more complex and global, but also more politicized. The concurrent shift in IR scholarship away from state-centrism opened the field’s attention to new threats and objects of security, including the movement of people across borders. The present section surveys the literature on the correlation between forced migration and state security, and draws out the salient lessons for irregular migration.

2.3.1 Understanding Irregular Migration Systems

The term migration system refers to the connections between sending, transit, and destination states through the flow of people. Migration systems tend to be more regional or inter-regional than global. Like other types of systems or networks, pre-established migration paths tend to deepen over time (Massey et al. 1998: 45-46). While at the micro level irregular migration systems are comprised of individual agents, and influenced by macro structures like global economic inequality or climatic change, the micro and macro are connected by meso-level variables such as state policy, social networks, conflict dynamics, economic potential, or political pressure groups (Castles & Miller

Irregular migration is defined roughly as transboundary movement of people that occurs outside regularized, state-directed channels, where the most important meso-level variables include facilitators such as traffickers and smugglers, border controls, and corruption among security personnel.\(^{15}\)

The general direction and composition of irregular migration flows are largely dictated by the relationship between push and pull factors in sending and destination states. Push factors include demographic pressure, economic potential, war and violence, political or other types of repression, ecological pressures, etc. which amount to perceived life chances or opportunities. Pull factors include any number of differentials along these variables, but can also include less tangible factors like colonial ties or rumours (Koser 2007). It is for this reason that the majority of irregular flows follow a South-North axis and migrants are generally undeterred by insecurity along the route. Unlike regular migration systems, irregular migration systems are often characterized by rather sudden alterations in response to changes in mobility orders.

“Fig. 1.2” presents the three systems. It shows that Europe represents a common destination for three irregular migration systems: the Western Mediterranean, Central Mediterranean, and Western Balkan systems. While each is relatively distinct, parallel migration systems sometimes overlap and converge.

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\(^{15}\) For purposes of measurement, scholars sub-classify irregular migrant stocks and flows into three types: demographic life events (births and deaths), status (overstaying visas to become irregular), entering the refugee status determination process to ‘leave’ irregularity, etc.) and geographic flows (irregular movement across borders). I am exclusively concerned with the latter.
Irregular migration systems are interesting for the study of international politics on at least three important counts. In the first, most fundamental sense, the irregular migration label is only possible in an era of regularized migration. The semantic point is important: migration can only be irregular in the historically contingent and relatively novel context where state functions include the desire and capacity for comprehensive controls over ingress and egress. Put in other terms, there is no endogenous ‘irregular migration’ in a region defined by open borders with a supranational conception of political community. Irregular migration into the Schengen Area, by definition, is a problem originating from without, and therefore particularly open to securitized responses. Second, given that irregular migration flows are essentially transboundary, one state or region’s policy choices necessarily affect the security, whether perceived or real, of another state or region. For this reason policy choices in the issue area tend to be zero sum calculations of self-interest. The final corollary is that irregular migration systems reveal significant power dynamics since they are comprised of inter-regional movement driven by political and socioeconomic differentials. These regional differentiations are inscribed with hierarchical power relationships (see Chimni 1999; Paoletti 2011). Although as we will see in Chapters 5 and 6, transit states have successfully coerced
the EU and member states through the threat of irregular migration, upending Betts’s claim that Northern states are policy-makers and Southern states “policy-takers” (Betts 2011).

2.3.2 The Migration / Security Nexus

Much of the recent scholarship applying IR to migration focuses on global governance and regime theory (Ghosh 2001; Betts 2011; Hansen et. al. 2011; Kunz et. al. 2011). With notable exceptions (e.g. Hollifeld 2004; Betts 2009; 2010) broader application of an IR security framework to migration rely on systems theories of balance of power (Adamson 2006), international society (Haddad 2008), or hegemonic stability (Koslowski 2011). And while Refugee and Migration Studies enjoy a more varied empirical toolbox for understanding human mobility (see Koser 2007; Castles & Miller 2009), there exists a tacit (though understandable) agreement not to portray migrants and refugees as direct security challenges, and instead to focus on the often pernicious effects of securitization on migrants.

The more oft-cited work on the migration / security nexus is informed by constructivist IR. While political scientists were interested in the effects of international migration and state policy since at least the 1980s (Zolberg 1981), the Copenhagen School was the first and most influential to bring the issue area to the general attention of IR by focusing on the construction of migration as a threat to societal security (Wæver et al. 1993; Buzan, et al. 1998). Later critical theory approaches focused on the normative implications of securitization applying concepts like governmentality, biopolitics, spaces of exception, and bare life (e.g. Bigo & Tsoukala 2008; Miggiano 2009; Brown 2010; Jones 2012). While the critical literature is important insofar as it problematizes liberal globalization narratives, it is imprecise in terms of explaining variation in security outcomes. I forgo a longer recounting of the migration / security literature since a number of comprehensive reviews already exist (see Huysmans & Squire 2009; & Lahav & Lavenex 2013; Hammerstad 2014). Suffice it to say that the literature largely focuses on ideational and theoretical phenomena and more empirical work is required.

I therefore focus on empirical findings on the relationship between forced migration and security from Comparative and Security Studies since they offer a more useful frame of analysis for the study

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16 Of course, both neo and classical realist and liberal scholars have long argued that population is an integral aspect of hard power, and that the scale of immigration is an indication of soft power at work.
of externalities from changing irregular migration systems. I pay special attention to the forced migration literature because of the range of parallels between refugee flows and irregular migration.

Refugee flows often develop and grow quite rapidly, they cross international borders, and refugees increasingly congregate in urban centres or are contained in camps near borders. Perhaps most importantly, the somewhat stark analytic divisions between irregular migration and refugee flows has proven increasingly divorced from reality given the emergence of “complex” or “mixed” flows, wherein refugees and migrants move together, but also because large numbers of irregular migrants either have genuine asylum claims, or once either lived in camps or had a previously recognized asylum claim and chose to travel in an irregular manner rather than wait years or even decades for resettlement or repatriation.

Correlations between forced migration and insecurity vary depending on the definition and scope of both variables. When (in)security serves as the dependent variable, the common causal relationship is that large-scale, unanticipated (or unwelcome) demographic changes generate security challenges for receiving states. States tend to see the influx of forced migrants as a situation to be avoided, and in the post-Cold War context often grudgingly accept large refugee populations because of international norms, attendant logics of appropriateness (March & Olsen 1998; Betts 2009; Lahav & Lavenex 2013) and the promise of international aid (van Selm 2005; Gottwald 2014) rather than any expected material or strategic gains. More often than not, receiving states simply have no choice since the majority of forced migrants cross into neighbouring states in the global South, where state capacity does not allow for comprehensive controls over the entirety of a border.

Salehyan & Gleditsch (2006) show that refugee flows are an important causal factor in the spatial clustering and diffusion of civil wars. Theirs is an important contribution since it illustrates that refugee flows can act as a cause, rather than merely a consequence of civil conflict, since they “can change the ethnic composition of the host state; exacerbate economic competition; bring with them arms, combatants, and ideologies that are conducive to violence; and mobilize opposition directed at their country of origin as well as their host country” (2006: 338). The broader “refugee warriors” literature argues that the humanitarian spaces of refugee camps offer room for combatants to regroup, recruit, and rearm, and from which to launch cross border attacks in their country of origin or challenge host state governments (Zolberg, Suhrke, & Aguayo 1989; Loescher 1993; Adleman 1998; Lischer 2005; for a rebuttal of the refugee warriors literature see Leenders 2008; 2009). Refugee
flows also significantly increase the likelihood of militarized interstate disputes since receiving states are more likely to intervene to prevent flows from sending states, and sending states are more likely to pursue dissidents included in refugee populations into receiving states (Selehyan 2008).

The statistical likelihood of host states experiencing direct political violence from refugees is, indeed, very low (Greenhill 2010). But externalities are not limited to direct armed violence or the diffusion of conflict. Greenhill’s study of more than fifty attempts at what she calls “coercive engineered migration” finds a high rate of success at coercing neighbouring states through the threat of “demographic bombs” (2010: 3). Target states accede to coercion not because of the threat of an influx of combatants, but because of the potential for large-scale migration to overwhelm the state capacities, and because of the threat of domestic discord. Global South states, in particular, are faced with the reality that hosting refugee populations is a long-term proposition, since third country resettlement and repatriation – the preferred durable solutions of the regime – are simply not available for the overwhelming majority of refugees. Less than 1% of all refugees are put forward for international resettlement. States which do end up hosting large refugee populations are often caught in a double-bind since policies aimed at local integration are often met with domestic backlash. Evidence from a range of cases suggests that the duration and size of refugee populations are correlated with domestic political unrest in the absence of integration, though large-N analysis is lacking (Morris & Steadman 2008).17

As explored in my case studies, states are increasingly willing to devote significant resources to closing borders and abrogating international laws and norms when asylum provision conflicts with domestic stability or provide a useful foil for domestic political gain (Long 2013). In examining specific examples of refugee flows from the breakup of Yugoslavia and the Rwandan genocide, Milner argued that asylum provision will prove increasingly scarce in countries where refugee populations are perceived as security threats since “security is an absolute priority of states; the granting of asylum is not” (2000: 10). Milner’s prediction is increasingly borne out in examples ranging from Australia to Israel to Hungary. The fact that strong states have proven willing to project

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17 While some studies illustrate that host communities, particularly around rural and border-area camps receive positive economic and social externalities (i.e., infrastructure investment, decreased costs of primary goods, education) as a result of proximity to camps, most refugees and migrants can be found in urban centres, where the positive externalities are far more diffuse and the chance for exploitation and social cleavages are high (see “The Impact of Refugees on Neighbouring Countries: A Development Challenge,” World Bank Development Report 2011 Background Note. Available at: http://siteresources.worldbank.org/EXTWDR2011/Resources/6406082-1283882418764/WDR_Background_Paper_Refugees.pdf.)
hard power to stem forced migration is indicative of the degree of anxiety over externalities from uncontrolled transboundary flows. For example, in 1995 President Clinton ordered the invasion of Haiti to re-install the deposed President Aristide to provide a legal basis for turning back refugees (Lennox 1993; Koh 1994). Securing Kosovo for the return of refugees was a key argument for NATO commitments to bomb Serb targets in 1999 (though Serb forces stepped up ethnic cleansing at the outset of the bombing campaign) (Stevens 2006). Since the early summer of 2015, EU politicians have been pushing for coordinated military action against human smugglers in North Africa. States with the capacity to do so clearly prefer to prevent forced migration rather than deal with domestic consequences.

Betts (2009) takes the security claim to a higher level of analysis, arguing that the historical purpose of the International Refugee Regime should be conceived of not only as humanitarian, but as a mechanism of preserving international order. He conceives of durables solution to refugee crises are a public good, since the reintegration of displaced people into the international system of states ensures they do not become a source of international instability. Hansen (2011) pushes back against the public goods approach, arguing that the security benefits accrued from asylum provision are largely nebulous, and the human insecurity inherent in forced migration is an effect, rather than a cause of conflict. However, Hansen’s claim does not necessarily follow if we broaden the scope of analysis to wider externalities of shifting irregular migration systems.

2.3.3 Irregular Migration & Security

In The Age of Migration, Castles and Miller argue that “hallmark of states in the modern era has been the principle of sovereignty, the idea that the government of a nation-state constitutes the final and absolute authority in society, and that no outside power has the right to intervene in the exercise of authority […] A defining feature of the age of migration is the challenge posed by international migration to the sovereignty of states, specifically to their ability to regulate movements of people across their borders” (2009: 3). The process of globalization and attendant transboundary flows don’t undermine the institutions of sovereignty per se, but instead prompt states to pay closer attention to the disjunction between their ideal form and the realities of movement. As Krasner argues, “the issue […] is not one of authority but rather of control. The right of states to manage their borders is not challenged, but globalization, it is asserted, has eroded their ability to do so” (2001). At the risk of
overstating the point: irregular migration raises questions about the core functions of the state in much the same way as a challenge to the monopoly of violence might.

Migration Studies scholars are largely reluctant to portray refugees and migrants as security threats since this might mean prioritizing state over human security. Instead, scholars often approach the challenges of irregular and forced migration through broader conceptions of state sovereignty. Koser’s review of the irregular migration / security nexus for the Global Commission on International Migration provides an exemplary claim that “whether or not irregular migration actually threatens state sovereignty is a moot point, [...] but what is incontrovertible is that integral to the concept of sovereignty is the right of states to control their borders” (2005: 4). Likewise, Castles & Miller argue that “a defining feature of the age of migration is the challenge posed by international migration to the sovereignty of states, specifically to their ability to regulate movements of people across their borders” (2009: 3). I devote some time to the connection between migration and sovereignty here since my case studies are largely taken up with material externalities, but also because a state’s ability to exercise control over both access to territory and threats to control over what goes on inside its territory are indicative of state capacity.

The modern state’s primary normative commitment to its citizenry over and above non-citizens, coupled with the unassailable right to regulate entry and control borders comprise the core attributes of the statist configuration of territoriality (Spruyt 1994; Teschke 1998). Statism is not only the inbuilt structure of the international order and the irreducible component of its core institutions, but also of our modes of analysis of the system. It both “orders the minds of policymakers” (Krasner 2001: 17), and “orders the mind of scholars” regardless of their positivist or critical credentials (Schmidt 2011: 602). This real-world and methodological ontology is evident in the fact that derivations from the authority/territory formulation are generally understood as either anomalous (i.e., Schengen as an example of progress) or pathological, where ‘weak’ or ‘failed’ states exhibit a decoupling of the two factors (Krasner 2001; Zacher 2001). And while the ideal form of the sovereign state model is a heuristic tool (Cox 1981; Walker 1993; Osiander 2001; Holsti 2005; Linklater 2007), the relationship between borders and security has crucial importance for the study of irregular migration.

Changes in irregular migration systems often present very real challenges to state capacity, particularly for already weak states, and arguably are open to more securitization, political
contestation, and abuse given that irregular migrant are not covered under a binding international regime with established (though unequal) modes for burden-sharing. My research points to a number of negative security consequences, at all levels of analysis, resulting from changes in irregular migration systems and state policies in response to those changes. Lessons from Comparative Politics and Security Studies on the connections between refugee flows and state security are thus applicable to the situation of irregular migration more generally. As Adamson argues, “[t]he general impact of migration on national security […] depends on the efficacy of a particular state’s policy to shape migration flows according to its overall national interests” (2006: 168). Irregular migration, by its very nature, is often portrayed as a threat since it undermines the role of states to regulate entry as part of a broader set of policy objectives. The term irregular would have no meaning otherwise. Indeed, for most liberal states, regulating and attracting the ‘right’ mix of people has become as important as providing security and economic growth. The three functions are intimately intertwined as guarantors of prosperity (Hollifield 2004: 901-902).

The migration / economic wellbeing connection presents one of a series of liberal paradoxes wherein meeting domestic calls for tighter migration controls would undermine demand for unskilled and semi-skilled labour in Northern states. Liberal states also face a normative paradox since tighter controls almost necessarily entail abrogating the rights of non-citizens in favour of domestic constituencies (Gibney 2003; Gibney & Hansen 2003). Illiberal states which completely rely on migrant labour (e.g., Qatar) or openly prioritize one ethno-religious category (e.g., Israel; Hungary) or are simply willing to imprison migrants for money (i.e., Libya) have less of a problem in this regard. But the notion that the security implications of irregular migration are moot, or that irregular migration only presents a challenge to formal sovereignty simply does not follow from the fact that it challenges more fundamental state competencies.

The sovereign state model therefore provides a set of guidelines for potential externalities from irregular migration since “plausibly, the extent of a state’s [strength] can be measured by the expanse genuinely controlled (especially after dark) by the official government” (Rotberg: 2004: 6). In addition to the types of domestic political discord and upheaval discussed above, irregular migration through a state’s territory often entails either the corruption of security services, the increased prevalence of transnational criminal networks, or both, often in collusion. In extreme cases non-state actors openly challenge control over peripheral and border areas. All of which challenges the state’s
control over its territory. In this sense the material externalities from irregular migration flows point back to the more fundamental challenge to formal sovereignty.

Transit states have three broad strategic choices when faced with large-scale irregular migration flows, within which there are several policy options: to *contain* the flows, which means policies around provision of asylum, detention and abuse, or simply tolerance and neglect; to *let flows pass* through their territory unhindered, which means either passive or active facilitation of mobility; or to *deflect* flows by closing borders, pushing refugees back over the border to the previous transit state, signing readmission agreements with transit states, or sending migrants either to third countries or countries of origin. In the majority of cases, changes in transit state policies occur as a result of changes in irregular migration systems, which, in turn are driven by Schengen’s compensatory measures and demands on transit states.

### 2.4 Case Selection & Methodology: Migration Systems & Qualitative Case Studies

The following section lays out my case selection, methodology, and a brief explanation of my data. I examine four cases. Chapter 4 makes a comparative historical analysis of the Central and Eastern European and Western Mediterranean irregular migration systems in the immediate post-Cold War period. Chapters 5 and 6 draw on my field work for analysis of the Central Mediterranean and Western Balkan irregular migration systems, respectively. Case selection thus offers a comprehensive view of irregular migration to Europe and the spectrum of European leverage in irregular migration system. To the best of my knowledge this is the first project to offer an in-depth investigation of each of the irregular migration systems which share Europe as a common destination.

My methodology is primarily qualitative. While I use data on irregular migration, border apprehensions, and migrant fatalities, I use process-tracing methods to draw out the causal mechanisms between changes in irregular migration systems and European policy. My original data is comprised of three years of field work in Morocco, Egypt, Israel, several states in the Western Balkans, and throughout Europe.
2.4.1 Case Selection: A Comprehensive View of Irregular Migration to Europe

In the Western Mediterranean route I look closely at Spain’s bilateral relationships with Morocco and periodic interactions with West African states, as well as EU-directed regional negotiations and bilateral mobility agreements. In the Central Mediterranean route I pay close attention to bilateral relationships between Italy and Libya and the EU’s interventions on the central Mediterranean crossing. My field research focused on the knock on effects of these interventions in Egypt and Israel. The Western Balkan route includes the largest number of states, and is unique in that involves a number of EU Member States and states in various stages of accession negotiations. My field work in the Balkans occurred during the height of the 2015 migration crisis.

Case studies follow a specific framework to draw out causal relationships. I first offer a historical account of the development of the system, then examine European policies and priorities, look at state compliance in the region, and draw these together to look at the effects of Europeanization on the irregular migration system. Claims for Malignant Europeanization thus begin with observed changes in irregular migration systems and externalities in transit states. Illustrating the changes in irregular migration flows is relatively simple given existing data is available from a range of sources. The real work is in illustrating the relationship between European regional integration, changes in irregular migration systems, and observed Malignant Europeanization. Moreover, I illustrate that Schengen’s compensatory measures explain changes in irregular migration systems which are not explained by other, endogenous variables. While counterfactuals are fraught, I identify changes which would not have occurred in the absence of Schengen’s compensatory measures.

The irregular migration issue area is novel for IR despite its increasing salience for interstate and interregional relations. In depth case studies are therefore a valuable first step since, as Wendt argues, developing empirical data through description of causal mechanisms in social sciences “ultimately requires case studies and historical scholarship” (1999: 82). Likewise, according to Gerring, “much of what we know about the empirical world is drawn from case studies” (2004: 341). Case selection implies that these are instances of a particular phenomenon, and therefore makes a claim that all cases under consideration are examples of a certain class or type of event (Gerring 2004; Klotz 2008). In this sense my cases are cases of the impacts of Schengen’s compensatory measures on irregular migration systems. In this sense I am telling a European story, though of course receiving states in other regions (i.e. the US, Australia, Thailand, etc.) are implicated in changes in irregular
migration systems. George and Bennett argue that case studies “remain much stronger [than large-N studies] at assessing whether and how much [an independent variable] mattered” in affecting a dependent variable (2005: 25). To my knowledge no studies exist which systematically analyzes the relationship between Europeanization and changes in irregular migration systems, much less the connections between the Schengen regime and security outcomes in non-European transit states. In this sense the small number of cases dictates the use of comparative cases studies to uncover complex causal chains which are not amenable to statistical analysis. In any even the study covers most of the relevant cases in regards to Europe.\textsuperscript{18}

2.4.2 Methodology: Process Tracing & Causal Mechanisms

Qualitative, in depth process-tracing (as opposed to large-N quantitative methods) are well-suited to the project for a number of reasons. While large-scale changes in irregular migration routes to Europe are well-captured by border apprehensions and asylum claim statistics, I use process tracing since the project has a novel focus on a previously unexamined relationship. While I ground my study in, and enter into debate with the Europeanization literature, I am interested in a novel dependent variable and theory development rather than theory testing. As George & Bennett explain: “process tracing can perform a heuristic function [of] generating new variables or hypotheses on the basis of sequences of events observed inductively in case studies” (2005: 6-7). Likewise, as Checkel argues, process-tracing offers a mode of analysis to explore causal mechanisms in “empirical applications where both agents and structure matter;” and later that process-tracing “moves us away from correlational arguments and as-if style reasoning toward theories that capture and explain the world as it really works” (2008: 114; 121). Importantly, process-tracing involves the application of prior knowledge about a phenomenon, and an idea of how cases vary over time and from one another. This prior knowledge is developed through careful research and experience from field work.

2.4.3 Data & Field Work

Original data is qualitative and was collected on several rounds of field work, for a total of about three years, throughout the Middle East, North Africa, Western Balkans, and Europe. The first research trip was in Morocco in the summer of 2009, predominantly in Tangier and in the Spanish

\textsuperscript{18} Other, smaller irregular migration systems exist between the Caucuses and Russia and Eastern Europe. During the 2015 migration crisis a small-scale route emerged through Russia to Finland and Norway.
enclave cities of Ceuta and Melilla (this period of field work was primarily a “soaking and poking” type period that led to significantly more desk research and eventual immersion in Europeanization, Migration Studies, Comparative Politics, and Security Studies literatures). I conducted two rounds of field work in Israel during 2011 and 2012 where I was hosted by the Department of International Relations at Hebrew University. I spent ten months in Egypt over the course of 2012 and 2013, where I was hosted by the Centre for Migration and Refugee Studies at the American University of Cairo. I spent six months in the Western Balkans from June to December 2015 in Serbia, Croatia, Hungary, and Macedonia. Field work also included three rounds of interviews at several Directors General of the European Commission and the European Council in Brussels, as well as the headquarters of Frontex in Warsaw, the UNODC and ICMPD in Vienna, and different NGOs.

In each case I focused on four levels of respondents: refugees and migrants, civil society & local NGOs, IGOs and international humanitarian agencies, and governmental respondents, including personnel from security services. Field work was comprised entirely of semi-structured interviews, generally one-on-one but sometimes in group settings. For instance research with migrants in Cairo often took place in family settings, and interviews with migrants in Tel Aviv often took place in public spaces, where groups of two or three people would offer their experiences. In the Western Balkans I also conducted interviews in parks, transit camps, and bus and train stations. I employed translators in Arabic, Farsi, and Pashto.

Conversations with migrants focused on reasons for leaving countries of origin, route choices, experiences during transit (particularly with security services and facilitators, and at borders) and plans for onward movement. The goal was to develop a general picture of journeys, but also to understand how the perception of route choices altered over time. In all cases I used a paid interpreter when necessary. I conducted interviews in English and French when possible, and sometimes used my (admittedly limited) Arabic.

I selected interviewees in Israel and Egypt first by introductions from NGOs, then through snowballing. All interviews were qualitative. In Israel, and particularly the Balkans given the pace of the flow, I often met migrants in public spaces or transit camps. Often migrants would approach me when seeing me interview other people. Many at first assumed I was a journalist and I took pains to explain my role as an academic researcher. Interviews in both locations were largely conducted in public spaces, cafes, and private dwellings. In the Balkans interview locations included border areas
and transit camps. In Egypt I paid special attention not to meet migrants in public places given the well-documented predation by security services and traffickers.

The goal of interviews was to let migrants tell their stories. I accumulated data using a checklist around specific indices (see Figures 5.6 and 6.3) and hand written notes. Very often they were harrowing and included significant stories of abuse, danger, and predation. The details of these experiences are well-reported in human rights reports, and I have largely elected not to reproduce stories of violence unless they are illustrative of an unreported trend or particularly diagnostic of a claim in my argument requiring evidence. I did not take personal information other than general biographical information (age, country of origin, gender). In general there were very few outliers in my interviews with migrants and the general picture of route choices and experiences amounting to Malignant Europeanization are represented in Figures 5.6 and 6.3, which report overall trends from 140 formal interviews with migrants, though I estimate I had informal conversations with roughly 20-30 more people with similar experiences. Formal interviews ranged from around 15 minutes to several hours depending on the situation.

Conversations with Civil Society and NGO personnel focused on their experiences with migrants and government, reports of either abuse or corruption, the role of the state in irregular migration, social repercussions of flows, and the political situation in general. NGOs were generally the first stop since they invariably proved invaluable in understanding the general contours of a situation and pointing me in the right direction for future interviews. I tailored discussions with IGO personnel to specific roles and mandates.

The goal of discussions with EU personnel was to develop a general picture of policies around Schengen’s compensatory measures, their perceived effectiveness, oversight and benchmarking, bilateral relationships, and, crucially, understandings about the consequences of changes in irregular migration systems. I selected EU policymakers and civil servants to interview based on seniority in relevant policymaking processes, subject-matter expertise, and experience in third country and accession transit states. My first round of interviews with policymakers asked about benchmarking for metrics around benign Europeanization in non-accession transit states in irregular migration systems. Subsequent rounds of interviews focused on policymaking processes, intra-EU agenda setting, and experiences in negotiating migration agreements with third countries and accession states in the Western Balkans.
Governmental respondents in transit states were asked similar questions about interactions with the EU, the timing and reasons for policy choices, and the general picture of irregular migration systems. In many cases governmental respondents proved willing to provide access to operations-level personnel, as well as insights into planning processes.

Detailed discussions of field work are offered in each case study chapter, however, it is worth noting that field work in transit states was not without its challenges, and different environments and political dynamic meant sometimes rather drastically different operating procedures. Israel and the Western Balkans proved the easiest research environments with migrants given that they were concentrated in specific areas and civil society was well-mobilized to facilitate access. Government respondents, however, were often hostile. Egypt was the most challenging research environment by a rather significant margin. My time there coincided with the Muslim Brotherhood’s tenure, when the security apparatus had pulled back from the public sphere, though the intelligence apparatus was still active around migrants and refugees. Access to migrants often entailed significant precautions around visiting their homes or meeting in a neutral, safe third space. Security personnel were difficult to interact with. Research in Egypt therefore focused largely on NGO and IGO personnel. Time in the Western Balkans coincided with the height of the 2015 refugee crisis. Access to migrants was simple, though entailed a good deal of travel around the region. Likewise, governmental personnel, particularly in Serbia, were available for in-depth interviews. Hungary and Macedonia had policies of refusing interviews, though I did speak with some governmental respondents. I enjoyed good access to EU policymakers throughout my research. The final round of interviews in Brussels, in November of 2015, was marked by some difficulty given the increased salience of the issue, and the coincidence of the Paris Nightclub attacks the Brussels lockdown.

My findings on migrant human security come from over 180 interviews across all types of respondents (migrants, civil servants, policymakers, politicians, NGO personnel, etc.), as well as academic literature, human rights groups reports, media, and governmental and IGO publications. There are significant methodological impediments to measuring levels of transnational organized crime. My data is gleaned from interviews with migrants, IGO, and rights group personnel, but also international reports including the US State Department’s annual “Trafficking in Persons” report, country-specific reports from human rights groups, the United Nations High Commission for
Refugees, the UN Office of Drugs & Crime, Interpol, Frontex, and the International Organization for Migration

Interviews with almost all respondents included questions around security sector corruption. EU officials, and particularly those working closely with transit states, often reported that while endemic corruption was undeniably part of irregular migration systems, political concerns meant corruption or reform were generally not a part of discussions with third countries. Several respondents reported conversations in which transit and sending state officials named a dollar amount in compensation for lost revenues for which they would be willing to limit irregular migration flows. In the cases of Turkey and Libya, Erdoğan and Qaddafi named these dollar amounts publicly.

Field research on corruption of security services presented some unique challenges. Interviewing an intelligence officer in Egypt was the only instance during field work when I was overtly threatened during fieldwork. The prevalence of corruption is taken from migrants’ first person accounts, interviews with civil society and IGO personnel, EU civil servants, a small subsection of governmental respondents, academic literature, public reports from IGOs, and a number of off the record conversations. I conducted interviews with smugglers in Israel and Serbia. Original research on the connections between irregular migration and militarized non-state actors proved difficult, and would have meant untenable risks during field work. Though I conducted some interviews with smugglers, the majority of interviews on the subject were with security and intelligence personnel from third countries, EU civil servants working on security sector reform, and IGO personnel. Most of the data on this indicator is largely taken from secondary sources.

Data on domestic political contestation is gleaned from primary research in transit countries including interviews with migrants and civil society, as well as first-hand observations. For instance, I was present in Tel Aviv and Jerusalem for anti-migrant riots and arson attacks. Primary data is subtended by academic literature. My argument for entrenched authoritarianism and democratic backsliding in transit states primarily relies on academic and other secondary sources. Original data on regional tensions comes from interviews with state policy-makers and IGO personnel. Data on shifting migration routes is taken from academic literature and IGO reports on changing migration systems.
2.5 Hypotheses, Causal Mechanisms, and Intervening Variables

I include both accession states and third countries in my analysis, and hypothesize causal mechanisms between Schengen’s compensatory mechanisms and malignant Europeanization. Pre-accession criteria, bilateral agreements with third countries, regional dialogue processes around irregular migration, fortified external borders, changes in asylum and immigration policies in Europe, and other containment strategies all fall under the rubric of compensatory mechanisms.

My model begins with observed externalities from changes in irregular migration systems around Europe, and then tests my claim as to whether these changes are causally connected with the development of the European project.

My central, overarching hypothesis is that European regional integration causes changes in irregular migration systems around Europe’s peripheries.

**H1:** Malignant Europeanization indicators will vary directly with observable changes in irregular migration systems as a result of Schengen’s compensatory measures.

The central causal mechanism between Schengen’s compensatory mechanisms and malignant Europeanization is changes in irregular migration systems. In certain cases, the exertion of European influence through conditionality and positive incentives alter transit state policies through bilateral and multilateral arrangements. The majority of my observations are material given that security repercussions and changes in practices and norms are the result of changes in the movement of people and the types of mobility. Irregular migration is an inherently transboundary and material phenomenon. One state or region’s policy choices necessarily impact adjacent states or entire regions. The results of one state’s policy choices tend to be zero sum, and in the absence of a migration regime to facilitate burden-sharing, tend to result in beggar thy neighbour / burden-shifting type outcomes. On one end of the spectrum for policy choices, “wave through” policies necessarily affect the next state in an irregular migration system, whereas closing borders affects the preceding state, and can push routes to new, less capable transit states.

I am not the first to note the negative externalities of Europe’s external migration governance, and scholarship on the issue area has tended to present a broader notion of the effects of Europeanization.
Boswell, for instance, differentiated between ‘traditional’ and ‘preventative’ approaches to migration management, with the former encompassing border controls and readmission agreements, and the latter encompassing programs to deter migrants from leaving in the first place or influencing transit state policies to block flows. Writing in 2003, she made the rather prescient claim that “it matters a great deal which is likely to emerge as the predominant pattern of cooperation for the two approaches differ profoundly in their assumptions about how to influence levels and patterns of migration and refugee flows, and they will have different impacts not just on questions of migration management, but also on refugee protection, development and stability in sending and transit countries, and on EU relations with third countries” (2003: 620 emphasis added). As has become clear in the intervening 15 years, European irregular migration governance proceeded from an increasingly securitized logic, driven by domestic political sentiment, with a combined focus on both ‘traditional’ and ‘preventative’ approaches. Each is correlated with knock-on effects in third countries, though ‘preventative’ policies demand the cooperation of third countries, generally in response to European incentives.

Lavenex and Uçarer’s 2002 edited volume Migration and the Externalities of European Integration was pivotal in developing the framework for my project. To quote their introductory chapter:

[W]e borrow the term externalities developed in economics as our starting point to denote the positive or negative, intended or unintended external effects of common European policies on third countries, international organizations, and adjacent policy fields. The notion of externalities may be differentiated with regard to the characteristics of the recipients, that is, third countries and organizations, on the one hand, and the characteristics of the external effects on the other, (2002: 8).

In a later paper on the “ripples of European integration” they argue, “the external effects of European policies take place along on a continuum that runs from fully voluntary to more constrained forms of adaptation, and include a variety of modes such as unilateral emulation, adaptation by externality, and policy transfer through conditionality” (Lavenex and Uçarer 2004: 417). This earlier literature raises a number of important considerations for malignant Europeanization.

At the domestic level, transit states are forced to develop policy responses to changes in irregular migration systems resulting from European migration governance. Non-EU third countries are not “passive recipients” of EU migration policy (Reslow 2012). Domestic politics and strategic interests significantly influence policy responses to EU overtures and to changes in irregular migration systems. While transit and sending states can choose non-cooperation with Europe, irregular migration is an inherently transboundary, material issue. States are forced to adapt to changes in
irregular migration systems. Even a “wave-through” policy is an active policy choice (as exemplified by most states’ response to the Western Balkan migration crisis), and has domestic, regional, and international ramifications. To quote Lavenex and Uçerer again:

A mix of voluntary and involuntary adaptation exists when the third country perceives the necessity to change its policies in response to the externalities of EU policies, *for example, rising numbers of asylum seekers as a consequence of tighter controls at the EU’s external borders*. Such negative externalities may alter domestic interest constellations so that the costs of non-adaptation are perceived to be higher than those involved in a unilateral alignment with the European policy. We would expect that the scope of externalities will be higher for countries which share geographic proximity and strong interdependence with the EU and its member states (2004: 421 emphasis added).

More broadly, sudden influxes or the politicization of migration flows can impact domestic politics in the sense that incumbents, opposition politicians, and other political actors can instrumentalize the issue area.

**H2:** Membership conditionalities and incentives are a necessary (though not sufficient) condition for benign Europeanization. Where these are not offered, domestic regime types and governmental interests will determine compliance with Schengen’s compensatory measures, but fall short of benign Europeanization.

Differentiation in outcomes around democracy and rights reforms are almost entirely correlated with domestic political factors and not from the supply (EU) side of the equation. van Hüllen’s model argues that differentiation of impacts has to do with degrees of political liberalization, statehood (i.e., state strength / capacity), and (international) interdependence, and that successful instances of democracy promotion in the post-Arab Spring Southern neighbourhood are often part of autocratic survival strategies rather than rule adoption (2015).

Weak conditionality does not imply, however, that Europe cannot exert its influence in “problem states”. The CEE and Western Balkan cases represent instances where European influence was a major factor in domestic regime change, and was a necessary condition for European influence over domestic structures. The Western Balkans case lends strong support to the view that “domestic conditions are decisive for successful compliance with European norms. External incentives and punishments can act as a catalyst and sometimes even ‘tip the balance’ for compliance, but mainly depend on pre-existing positive domestic conditions as fertile ground. Correspondingly, compliance varies with regime type,” (Schimmelfenig, Engert, & Knobel 2006: 93). Conversely, if authoritarian
leaders are entrenched and exercise strong domestic control, the EU will not exercise sufficient conditionalities for benign Europeanization, particularly in the absence of membership incentives. In some cases, notably Morocco, positive conditionalities have resulted in some degree of formal rule adoption around migrant rights. However, as is discussed in Chapter 4, negotiations took decades, were politically fraught, and involved serious concession on the European side of the bargaining dynamics. Compliance and eventual rule adoption in Western Balkan states were made possible only through the combination of sufficient threats and credible membership incentives to overcome the domestic risk of governance, rights, and judicial reforms.

H3: Where membership incentives are absent (i.e., in third countries or existing Member States), the intervening domestic variables of regime type, state strength, and preexisting political narratives will determine variation in malignant Europeanization.

I hypothesize that changes in irregular migration systems in more authoritarian states will result in more severe types of malignant Europeanization – particularly human security, corruption, and transnational organized crime. Weaker states will experiences more emboldened MNAs, and a greater prevalence of transnational organized crime as a result of Schengen’s compensatory measures. States with a more prominent ethno-nationalist or ethno-religious political narratives or more obvious social cleavages around state identity will experience more domestic political contestation. Importantly, pushing migration routes to states with endogenous or pre-existing corruption, insecurity, weak rights provisions or adherence to international norms will exacerbate these indicators. States where incumbents’ political positions are more closely linked with nativist political sentiments will experience more democratic backsliding. Membership incentives will mean that benign Europeanization will mitigate Malignant Europeanization.
Chapter 3 Domestic Politics and Migration Crises: Compensating for Open Borders and Incentives for Irregular Migration Systems

3.1 Introduction

This chapter offers a history of Schengen’s compensatory measures as enshrined in Europe’s constitutive treaties and institutions, and provides an historical framing for the subsequent case studies. It illustrates that European states and policymakers were always concerned with vulnerabilities implied by open borders. Compensatory measures played a prominent role not only in the ratification of successive EU treaties, but in the political framing of a successful European project. Compensatory measures for open borders, and their impacts on peripheral transit states, are therefore properly understood as an outcome of European regional integration.

The chapter proceeds in three parts: the first frames Europe’s responses to the 2015 migration crisis in historical perspective, and argues that responses followed well-established patterns of domestic political backlash, weak intra-European solidarity, and reactive policymaking. Political deadlock and the breakdown of intra-European burden-sharing and solidarity mechanisms (Schengen’s internal compensatory measures), has militated toward an emphasis on extraterritorial policies (Schengen’s external compensatory measures) to contain migrants in sending and transit states.

The second section delves further back to changes in migration trends through the 1970s, 80s, and 90s and the development of the European Project. I chart a dual process of domestic political resentment at the same time that the EU was developing its policies around open borders, free mobility, and foreign policy. Concerns over uncontrolled migration were thus uploaded to intergovernmental bargaining and made their way into the EU’s treaty processes. Asylum crises, the end of the Cold War, and the potential expansion of Europe’s borders to the East coincided with the full articulation of the Schengen regime through the codification of the Schengen border code and its inclusion in the 1999 Treaty of Amsterdam.

The third section examines changes in global migration dynamics in immediate post-Cold War period. The collapse of the Soviet Union and European enlargement coincided with global shifts in flows of asylum seekers and migrants. Domestic concerns in liberal, receiving states were uploaded
beyond Europe to the international refugee regime, which abandoned its previous ‘exilic bias’ in favour of a focus on return to countries of origin. At the same time, civil conflicts, protracted periods in refugee camps, global south economic development, and cheaper communication and transportation technologies meant a greater demand for South-North migration. The disparity between prohibition and demand fostered market incentives for irregular migration systems.

3.2 Responses to the 2015 Migration Crisis in Historical Perspective

The confluence of the Syrian Civil War and endemic political, economic, and ecological pressures in migrant sending countries made 2015 and 2016 record years for irregular migration to Europe. The Central Mediterranean – the last leg of a migration system incorporating states throughout Africa, the Middle East, South Asia, and the Maghreb – was by far the most heavily traveled of the three major irregular migration routes to Europe until the Western Balkan route overtook it over the summer of 2015. While an average 44,000 crossings were detected from 1998-2013, 2014 saw the number skyrocket to close to 220,000 (UNHCR 2014; Frontex 2015). The spectacular migration of almost a million people through the Balkans, its closure through a bilateral deal between the EU and Turkey, speculation of new routes across the Black Sea, through Bulgaria, from Egypt, and the steady increase in Central-Mediterranean crossings defy presenting up-to-date statistics. Suffice it to say that Europe’s migration crisis neither began nor ended with the official closure of the Balkan route in March of 2015, and sea crossings from North Africa continue to set records for overall numbers and fatalities. Tragedies on the route and political debate around European responses serve as an example of European responses and the impacts of irregular migration on the European project *writ large*.

3.2.1 Recurrent Tragedies and the Migration Crisis

In the early hours of 19 April, 2015 media reports began to emerge about what would turn out to be the deadliest tragedy of the Central Mediterranean route. It signalled the beginning of the 2015 migration crisis. Late the previous night, a freighter crammed with roughly 850 migrants capsized in international waters off the coast of Libya, from where it had set sail. Though fewer than 30 bodies were recovered, more than 800 people were presumed dead; only 27 were rescued. The combined death toll for the route for April, 2015 was close to 1250, the highest on record. The EU responded with an Extraordinary European Council meeting on migration to develop a comprehensive plan of action. The specifics of the migrants’ journeys, political reactions in Europe, and the range of the
EC’s proposed policy responses offer key insights into what is, despite the extraordinary tragedy, a decades-long series of interactions between Europe and irregular migration systems around its peripheries.

The majority of migrants on the capsized vessel were likely from Syria and the Horn of Africa. Though the composition of flows are ‘mixed’ (comprised of refugees, asylum seekers, and economic migrants), the simple fact is people are compelled to leave their countries of origin because of push factors including war, repression, ecological degradation, and endemic poverty. They were drawn to Europe for equally powerful pull factors: relative stability, wealth, and attendant safety. Libya had become the primary North African staging ground not only because of its proximity to Europe, but because the corruption of security services, and more recently the collapse of the centralized state, mean that it also offers a path of least political resistance and open ground for smugglers and traffickers.

Until 2007, Spain received the highest number of arrivals by sea given the short distance across the straits of Gibraltar and Otranto. The migration system was altered after Spain signed a series of readmission agreements with Morocco, stepped up maritime surveillance, and built more severe barriers along accessible entry points. While routes shift in response to border controls and domestic conditions in destination states, conditions in transit state largely dictate their character and political impacts. Irregular migration systems continue to develop regardless of the inherent dangers of the journey.

3.2.2 A New Migration Agenda: Same Song, New Dance?

The Extraordinary EC meeting resulted in a new “Agenda on Migration”, which included increased resources for maritime rescue operations, a renewed call for solidarity and burden-sharing through the Common European Asylum System (CEAS), and calls for deeper collaboration with transit and sending states.\textsuperscript{19} While these policies represent an aspiration toward a greater degree of coordination on externalized migration controls and intra-EU solidarity, they are the same \textit{in kind} to those

\textsuperscript{19} The CEAS, launched in 1999, is comprised of directives for common asylum procedures, reception conditions, asylum qualification, the Dublin regulations for returns to first country of arrival in Europe, and biographical and biometric data sharing through the networked EURODAC system to facilitate said returns.
developed over the past fifteen years.\textsuperscript{20} While by far the most publicized, the eventual €6 billion deal with Turkey to readmit irregular migrants and block further movement is merely one example of the EU focus on readmission and migration control deals with peripheral transit states.

The only truly novel development was endorsement of an Italian proposal to undertake EU-level military actions against smugglers and traffickers by seizing or sinking boats linked to smuggling syndicates – a proposal which faltered when (both) Libya’s governments rejected the possibility of UNSC-mandated military action.\textsuperscript{21} But extraordinary action in response to crises of unregulated human mobility are nothing new; in fact, iterated crises (whether real or perceived) have been hallmarks of the development (or lack thereof) of European burden sharing on the issue since the development of Schengen.

The EU was roundly criticized by a range of actors in the lead up to the April 19\textsuperscript{th} tragedy for not committing sufficient resources to search and rescue in the Mediterranean. Operation Triton, the EU-led maritime operation in effect at the time of the tragedy, only covered a small area off the Italian coast – at a total cost of €2.9 million per month. Triton was a significantly scaled-back version of an Italian operation called Mare Nostrum (‘Our Sea’) – which was far more comprehensive and had rescued close to 100,000 migrants on the route over the previous year. The monthly budget of €9 million was too great a sum to sell to the Italian public, who have repeatedly signalled distaste for their role as the major frontline state for irregular entries to Europe. The revamped mission announced after the tragedy, touted as representing the commitment of all member states, essentially replicated Mare Nostrum in scope and cost. While Italy has a particularly checkered history of concern over migrants’ rights and wellbeing in transit states (dealt with in detail in later chapters), the fact remains that in many cases unilateral state policies, driven by domestic political interests, often have more immediate effects on irregular migration than Brussels-led initiatives. Of course, actions by Brussels are often a response to Member States’ demands for action, and Member State actions are often designed to spur a policy response from the Commission or Council.

In the absence of intra-European burden sharing, the main thrust of EU-level policy development over the last decade and a half has been a focus on externalized polices and return agreements to

frontline states under the Dublin Regulations, which seek to influence irregular migration systems in transit states in order to prevent flows from reaching Europe’s borders in the first place. These policies, however, are often characterized by overlapping competencies, tactics, and strategies, and are largely reactive to changes in migration flows.

3.2.3 Challenges to Solidarity & Incentives for Externalized Policies

The focus on external control mechanisms underscores the challenge in convincing states to commit to binding obligations around issues of migration and asylum. While most Member States have ceded control over core aspects of state sovereignty (i.e., monetary policy, judicial oversight, the movement of goods, services, and labour across borders), asylum, and the mobility of third country nationals remains an issue area over which states are loathe to cede control to Brussels. Acquiescence to top-down quota systems as proposed in the “Agenda on Migration” adopted in the Extraordinary EC meeting would be electoral suicide for many leaders in an era of austerity and the rising influence of extreme right parties which push the centre’s rhetoric toward more anti-immigrant discourse (e.g., Checkel & Katzenstein 2009; van Spanje 2010; Fligstein et al. 2012).22

A 2015 IOM / Gallup survey on global attitudes toward migration found that public opinion was most significantly against migration in those states with the most exposure to irregular migration pressures (IOM 2015). Thus a policy area in which the European project requires more significant solidarity and centralized policy development faces the challenge of increasingly nativist politics in member states – a rather significant impasse for the bloc. The Commission’s proposal to alleviate pressure through relocating Syrians and Eritreans (two groups with prima facie asylum claims) from Greece, Italy, or other states facing an influx of irregular entries to other member states faced serious backlash from Eastern European and Baltic states, which all but refused binding quotas (European Commission 2015: 4). While it failed to gain the constitutionally-mandated threshold of voters, the October 2016 Hungarian referendum on the question “Do you want the European Union to be entitled to prescribe the mandatory settlement of non-Hungarian citizens in Hungary without the consent of Parliament?” is indicative of the role of domestic politics in intra-EU burden sharing through mandatory redistribution quotas. If alleviating pressure on front-line states by relocating migrants who are already in Europe was a non-starter, then the complementary proposal in the

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22 Anti-immigration sentiment is not a fringe opinion. As Moses argues: “Whereas American survey respondents wish to limit the flow of immigrant entry, most European respondents voice concern over increasing the stock of migrants. It would seem that Europe has lost whatever appetite it once had for foreigners,” (2014: 604).
Agenda to establish a mandatory EU-wide distribution key for resettlement of refugees from third countries was even more remote.

A fully-formed Comprehensive European Asylum system (CEAS) therefore remains largely aspirational. Its most well-developed component, the Dublin Regulations, dictate that states of first arrival are responsible for processing asylum claims, regardless of the means of entry. EURODAC, a biometric and biographical data sharing system, is geared toward stopping intra-European mobility of third country nationals and ending the problem of asylum venue-shopping. But front-line states are often those least willing to host migrants, and least capable of processing asylum claims. In many, the arrival of migrants has resulted in xenophobia, domestic migrant round-ups, illegal cross-border pushbacks, and a reliance on de facto long-term detention. Front line states also have some of the highest refusal rates for first asylum claims or leaves to stay.

The realities of migration dynamics militate against EU burden sharing even if states are willing to comply or forcibly detain migrants and asylum seekers (see Castles 2004). Differing asylum procedures, family settlement patterns, and chain migration mean many migrants from states with high rates of positive asylum decisions do their best to remain undetected and lodge applications in states other than that of first entry. But compliance can be remarkably rare. Before the 2015 crisis, Italy, Greece, Hungary, Bulgaria, and other front-line states often simply allowed migrants to move on to other Schengen states without collecting biometric data since compliance with the CEAS would saddle them with the burden of refugee status determination and long-term hosting. Though policy responses changed from one week to the next, burden-shifting was the defining state policy during the crisis.

Italy’s call to destroy smuggler’s boats and the very expensive and unstable EU-Turkey deal illustrate policymakers’ need to do something about illicit transboundary flows. But in the absence a major paradigm shift in intra-EU solidarity, Brussels-led initiatives will continue to run aground of domestic politics in member states. While these types of political repercussions exist in other parts of the world, Schengen’s open borders mean burden-shifting has become a threat to the European project itself. The remaining policy option is to continue to divert migration flows through externalized migration controls and deter migrants from undertaking the journey. While the 2015

23 For a personal account of decision-making process for the onward journey through Europe see: 

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scale of movement into Europe is unprecedented, contemporary dynamics follow well-established patterns. As I discuss below and substantiate in my case studies, rather than being exogenous to irregular migration flows, EU migration and border controls are integral determinants of irregular migration systems, and have been since the development of the borderless Schengen Area.

3.3 The Domestic Origins of Schengen’s Compensatory Measures

Until 2015, the meta-goal of the European project was to fulfill the promise of ever closer union between Member States. International Relations literature tends to paint the EU as one of the hallmarks of progress in the international system, portraying the Schengen regime as a distinct break from the indivisible Westphalian triad of mutually exclusive territories, comprised of distinct political communities, bounded by sovereign borders. For many IR scholars, the Westphalian attributes of the state are assumed. Examples of change toward non-exclusive configurations of political geography have garnered significant attention (see Schmidt 2011). This focus is understandable given that “post-modern” territorial configurations are often understood as synonymous with ‘progress’ (e.g., Adler & Crawford 1991; Ruggie 1993; Linklater 2007). In the European case, the implications of progress are observable insofar as the blurring of absolute territorial exclusivity is part of a process of profound regional integration, and coextensive with the security dividends of dependable expectations of peaceful change (Adler and Barnett 1998; Adler 2005). Relinquishing absolute control over human mobility is part and parcel of this process (Buzan & Hansen 2009).

3.3.1 Domestic Reactions to Changing Migration Dynamics

The end of the Cold War was pivotal for both the development of the European project and its orientation toward irregular migration governance. German reunification, alarmist rhetoric around uncontrolled influxes from the post-Soviet space, asylum crises, and a new focus on North African and Sub-Saharan irregular migration into Southern Europe pushed migration from an issue of low to high politics and from a predominantly socioeconomic concern to a security issue. The impending open border regime and deeper supranational governance meant that Member States’ domestic concerns would be uploaded to the EU level.
By the 1970s Europe had become a continent of immigration, predominantly in the form of labour migration from post-colonial countries. Despite the fact that the post 1973 economic downturn temporarily decreased the overall migrant supply, chain migration, and family reunifications combined to increase overall migration at a time when public opinion was turning against it. The supply / demand imbalance offered the space for politicians and pundits to drum up fear around the economic and societal impacts of uncontrolled migration and impending integration crises (Hansen 2003; Lloyd 2003; Moch 2003). Governments tightened labour regimes and family reunification laws in response to domestic political opinion.

Tightened laws, however, were matched with newly robust rights discourses, the emergence of activist civil society groups like the European Council of Refugees and Exiles, and domestic courts enforcing more liberal interpretations of citizenship laws (Hollifield 2004: 895). Politicians were caught in a liberal paradox wherein domestic (and eventually EU) law would truncate their capacity to respond to calls to fundamentally limit immigration (Geddes 2003; Hollifield 2004; Gibney 2004). As Max Frisch famously stated, “we asked for workers. We got people instead.” The stage was set for rightist politicians who would link a perceived inability to control migration with nativist and often anti-EEC (and soon EU) political agendas.

At the beginning of the 1980s the continent was divided between Northern in-migration and Southern out-migration regions (Bade 2003: 219). By the mid-1980s, however, the Southern states shifted for the first time to regions of net immigration as their agricultural sectors came to rely heavily on circular migration, predominantly from North Africa (de Haas 2014). For example, the total number of foreigners in Italy doubled from 300,000 in 1981 to 600,000 in 1991. Closed migration regimes had the pernicious effect of incentivizing illicit settlement over circular migration. By 2006 the number had reached 2.4 million people, most of who had arrived in an irregular manner or overstayed work or tourist visas (Castles & Miller 2009). The development of the European project meant that irregular migration into Southern European states was now also an issue for Northern Europe – a concern which rose to the top of the EU policy agenda. Residence rights became increasingly tied to labour permits and employer sponsorships, with states imposing more significant penalties for employers. States like Spain, France, and Italy enacting a rolling series of regularizations to dampen the political repercussions of, and better manage irregular migrant populations (Baldwin-Edwards & Kraler 2009; Brick 2011).
The early 1990s also saw the emergence of asylum crises in Northern Europe. Total asylum applications to OECD European countries doubled from 320,000 in 1989 to 695,000 in 1992. Foreshadowing the 2015-2016 migration crisis, Germany received the largest overall number of claimants (and also called for a European refugee redistribution scheme). The increase in refugee numbers was the result of changing global conflict dynamics, but also a response to changes in European policy. Most broadly, the end of Cold War bipolarity meant changes in conflicts toward longer civil wars in the global South, with much higher rates of non-combatant casualties. Neighbouring states were both less capable and less willing to integrate large numbers of refugees. The breakup of Yugoslavia generated massive numbers of refugees to Europe. By 1995 there were an estimated 2.7 to 3.5 million IDPS in ex-Yugoslavia. Concerned that many would soon be in Europe, European and NATO leaders pushed for safe zones in the region and enacted the first temporary protection legislation.

Throughout the 1970s and 80s, and particularly in the 1990s, the profile of the typical refugee changed from a permanent, skilled, exile from communism, to persecuted, predominantly dark-skinned asylum seeker from the global South. The global refugee population exploded from 2.4 million in 1975, to 10.5 million in 1985, to 15 million in 1995. Before the Syrian Civil War, it peaked at almost 20 million in 1993. Destination states began to complain to the UNHCR about the constant resettlement claims from far afield. The international refugee regime shifted from its previous “exilic bias” of preferring resettlement and naturalization to pushing for return to countries of origin as the preferred durable solution to refugee crises (Loescher et al. 2008: 48).

At the same time, migrants from the global South resorted to asylum applications in order to circumvent Europe’s restrictive immigration regimes (Crisp 2003; Castles & Miller 2009). Rejection rates rose significantly, but the majority of rejected claimants absconded, adding to the population of irregular migrants who had overstayed tourist and work visas (Bade 2003: 267). In contrast to Cold War refugees, those from the global south were immediately the subject of prohibitive doubt; in the period when Europe was opening its borders to trade, labour, and financial flows, public opinion framed asylum seekers from outside Europe as an unwelcome threat to the European community (Hollifield 2011).

Worries about societal security took a prominent (and apparently permanent) role in domestic politics and EU-level policymaking. Reading back on the debates around open borders, the need for
an organized response, and the convergence of euro-sceptic and xenophobic agendas from the era read as startlingly contemporary. In 1993 the French government announced a “no immigration” policy, and gave police new powers to arrest and detain migrants. For the first time asylum applicants were screened as “threats to public order” (Bicchi 2007). The 1990 collapse of the Albanian regime meant Italy experienced the first large waves of irregular entries by sea, and responded with the first compulsory detentions and mass returns. Right wing politicians in the Netherlands, Denmark, the UK, and Spain likewise called for radically tighter migration regimes. These concerns were eventually uploaded to EU policymaking through supranational policy and intra-governmental bargaining over successive EU treaties.

3.3.2 Treaties, Intergovernmentalism, and Schengen’s Compensatory Measures

From the outset, agreement on removal of systematic controls at internal borders was predicated on capacity building and securitization at Europe’s external borders, since access to one state would mean unfettered access to all others. Article 17 of the Schengen Agreement (1985) reads: “In regard to the movement of persons, the Parties shall endeavour to abolish the controls at the common frontiers and transfer them to their external frontiers.” Likewise, the Schengen Agreement institutionalized the dichotomy between European citizens and third country nationals. Developing the institutional mechanisms to reflect this double distinction was a crucial and early component in addressing state concerns over how to control and manage illicit transboundary flows, particularly irregular migration. In fact, discussions about the compensatory mechanisms for open borders were underway a decade before public negotiations and two decades before the full expression of Schengen (van Selm 2005; Zaiotti 2011).

From the mid-1970s to late 1980s, groups of civil servants and security officials met in closed, intergovernmental fora to address the issues around transboundary flows in the advent of a borderless Europe (Neal 2009). The influential Trevi Group (Terrorisme, radicalisme, extrémisme et violence)\textsuperscript{24} and Ad Hoc Group on Immigration were comprised of police, customs and border officials, and high level bureaucrats from Western European states who foresaw the necessity of integrated policies to deal with emergent problems inherent in the removal of border controls in the event of the expansion of Schengen; concerns over irregular migration and border controls were foremost on the agenda.

\textsuperscript{24} The group was established in 1975 to deal with the various terrorist activities around Europe throughout the 1970s.
Pre-Maastricht discussions of integrated migration policies took place outside of the supranational framework and thus without legal oversight, interventions of the European Parliament, or the monitoring capacity of civil society or NGOs.

External borders were very much at the fore of EU policymakers’ minds when the European Council met in Edinburgh in 1992 to discuss the ratification of the Maastricht Treaty (Boswell 2003: 626). The official communiqué from the meeting is instructive in that the majority of its preamble deals exclusively with the border control, migration, and security issues involved in implementing the Schengen. It states that removing internal borders and facilitating free mobility as stipulated in the Treaty of Rome were not possible “without creating dangers for public security and compromising the fight against illegal migration” (European Council 1992: “Edinburgh Statement”, Part A 1(18)). The focus on securing borders and the failure to expand the Schengen area from its initial five members is understandable given that European states were struggling to respond to crises on their immediate borders from the aftermath of the breakup of the Soviet Union, German reunification, and the growing conflicts in the (soon to be) former Yugoslavia.

The 1992 Maastricht Treaty essentially created the contemporary European Union as a legal and political entity. It did so by working toward a full Economic and Monetary Union, institutionalizing the EU’s bicameral system, and enshrining the commitment to work toward the institutions and norms of European Citizenship and the right of freedom of movement (Laursen 2014: 132). It officially made cross-border mobility an interest for EU institutions, with a much broader scope for action and policy development (Kraler et al. 2006). Though Maastricht did not incorporate the Schengen acquis, it did roll the Trevi and the Ad Hoc Group into the intergovernmental K4-Committee (named after the treaty clause around security collaboration), which would now report to the European Parliament and soon become a more robust part of EU policymaking by coordinating tasks and preparing opinions on its own accord to bring to the Commission.

Maastricht created two new “pillars” of formalized intergovernmental negotiation: Common Foreign & Security Policy (CFSP), and Justice & Home Affairs (JHA). While the thornier “Second Pillar” issues of common security, defense, and foreign policy were left to be negotiated in the interim between Maastricht and the next Intergovernmental Conference (IGC), Maastricht addressed the “dangers for public security” by situting the issues of border control and asylum policy within JHA (Beach 2005). JHA was concerned with intergovernmental cooperation over cross-border crime,
combating illicit drugs, terrorism, and other issues for which policing and punishment were the primary responses. According to Moraes, “the controversial packaging of migration issues with other JHA issues [...] had the political consequences of associating migration with negative security issues, while excluding discussion of its positive economic and cultural benefits” (2003: 120). Securitized discussions coalesced around external border controls, which shifted the focus from the more difficult task of apprehending irregular migrants after entry towards deterrence from initial entry (Lahav 2006). While Member States did not transfer any significant competences to the EU though Maastricht, and JHA remained a sphere of intergovernmental rather than supranational relations, the effect was that irregular migration and border controls had become securitized through bureaucratic and treaty-making processes.

Maastricht provided the necessary room for the eventual inclusion of Schengen into the EU acquis to be negotiated at the next IGC. Rolling migration and asylum policy into the JHA pillar was the principal compensatory measure. As Monar argues, JHA issues are of fundamental importance to the development of the borderless EU, since they supersede fundamental state functions, particularly those which relate to “the most invasive forms of state action such as the deprivation of liberty, refusal of entry at borders, expulsion, and uncovering of personal data” (2014: 614). The period between Maastricht and Amsterdam allowed for deeper interstate collaboration and for the Commission to develop and elaborate its competencies over migration and borders and lay the groundwork for the Common European Asylum System (Kraler 2006; Moses 2014).

Publicly, the 1996-1997 IGC in the lead up to the Treaty of Amsterdam was dominated by the need to respond to the criticism of the EU’s “distance” from European citizens. From an intra-governamental perspective, it was dominated by political debates around migration, asylum, and crime; eventual expansion to Central and Eastern European (CEE) states in the aftermath of the Cold War; the security and mobility ramifications from the wars in Yugoslavia; and domestic political disenchantment with the EU project (Blom & Vanhoonacker 2014: 138). The eventual Amsterdam Treaty (1999) transferred most JHA competencies around asylum, borders, and third country nationals to the supranational first pillar. The goal was to upload these more complex responsibilities

25 The 9 official “joint areas of interest” with which JHA was concerned were: asylum policy; regulations controlling the crossing of external members state borders; the fight against drug addiction; fight against fraud on an international scale; legal cooperation in civil and criminal law; cooperation in custom; police cooperation for preventing and fighting international terrorism; and Europol.
26 Accession negotiations with Cyprus, Hungary, Poland, Estonia, the Czech Republic, and Slovenia began in 1998, and with Bulgaria, Latvia, Lithuania, Malta, Romania, and Slovakia in 2000.
to Commission and Parliamentary jurisdiction (Börzel 2013), include the oversight of the European Court of Justice (ECJ) over both domestic and supranational policy, and, most importantly, create binding obligations for accession and candidate states around borders and mobility (Risse & Börzel 2005; Schimmelfennig & Sedelmeier 2005; Sedelmeier 2014).27 As the 2015-2016 migration crisis illustrated, the corollary of supranational mobility policies is that domestic politics and supranational solidarity mechanisms come into sharp relief in periods of crisis.

Amsterdam was a crucial turning point in institutionalizing and legally enshrining the European citizen / third country national and internal / external borders distinctions. It explicitly juxtaposed the fundamental freedoms of European citizenship against oversight mechanisms for the return of failed asylum seekers, granting temporary protections, refusals of entry at external borders, technical standards for border controls, data sharing, and eventually a common European border agency. It was also through Amsterdam that Schengen was incorporated into EU law, making freedom of movement and the European project virtually coterminous.28 Schengen lost the status of a treaty through its inclusion as part of the EU acquis (the accumulated body of laws, legislation, and legal decisions which constitute European law), and can only be renegotiated through legislative processes. The result is that all existing and potential EU member states are legally bound to implement Schengen protocols and all of their compensatory mechanisms.29

The IGC in the lead up to the 2003 Treaty of Nice was primarily concerned with the institutional structure and voting weights of the Council and Parliament, particularly the institutions of Qualified Majority Voting, which had to be dealt with in the lead up to the 2004 Eastern enlargement. The “big bang” Central and Eastern European (CEE) enlargement incorporated ten new states into the EU, which, according to bilateral accession agreements, undertook not only the broader processes of good governance, rule of law, rights promotion, and economic reforms, but also incorporating the whole of the EU acquis.

27 As Börzel argues “What national governments lose in authority to regional institutions, they gain in problem solving capacity, particularly since many societal problems, such as environmental pollution, drug trafficking, or migration, are no longer confined to the boundaries of the nation state” (2013:516). However, while CEE accession states would officially adopted the majority of European governance and legal frameworks, actual implementation and compliance vary significantly between states (e.g., Goetz 2005).
28 It included opt-outs for Denmark, the UK and Ireland; though it also includes Iceland, Norway, and Switzerland as non-EU states.
29 The result is the Europeanization of the treatment of third country nationals and border controls. Though as Hansen (1998) argues, states retain absolute control over immigration policy; and the oft-touted “post-national” character of European citizenship has no real empirical validity insofar as third country nationals are concerned (Maas 2008).
The EC moved from the closed door IGC model to a more open Convention model in the lead up to the “final” Constitutional Treaty for the EU. Its major innovations would be the creation of a President of the Commission, an office of EU Foreign Minister, the European External Action Service, and incorporation of the EU Charter of Fundamental Rights as a binding part of the Constitution. Of course, referendums in France and the Netherlands voted down the Treaty in 2005 and the British government suspended ratification. The failure of the Constitution led to a renewed crisis for the notion of the idea of steady progress toward pooled sovereignty and supranational governance for the EU in the face of domestic political interests (Moravcsik 2008).

3.3.3 Post-Lisbon Mobility Politics and Externalized Compensatory Measures

Serious work on a new treaty began in 2007 under the guidance of the German and French Presidencies. Negotiations returned to the closed-door IGC approach and abandoned the Constitutional language. After rounds of amendments and opt-outs, the reformulated Lisbon Treaty entered into force in 2009. The fundamental objective of creating an “area of freedom, security, and justice” (AFSJ) was placed above economic and monetary policy in the list of EU objectives (Monar 2014: 613). Internally, the spirit and aspiration of AFSJ was to develop the EU’s state-like capacities in regards to positive rights for European citizens. It was fundamentally predicated on protection against external “threats”, with an overbearing emphasis on irregular migration and border controls (Hix & Høyland 2011: 273).

Article 80 of Lisbon states that supranational policies: “shall be governed by the principle of solidarity and fair sharing of responsibility, including its financial implications, between Member States” (Thieleman 2014: 810). The 2010 “Stockholm Programme”, essentially the JHA five-year plan, explicitly stated that the resilience of positive rights within the AFSJ were to be ensured through robust compensatory measures to manage access to it. Stockholm presents the clearest articulation of the notion that the European Project is fundamentally predicated on increasing capacity over externalized JHA affairs, particularly border security, return directives, and engagement with third countries. In this sense Lisbon enshrines the internal/external, EU citizen/third country national distinction first described in Schengen twenty years earlier as a binding treaty obligation.
The genealogy of successive EU treaties, culminating in Lisbon, illustrates that the European project of open borders and freedom of movement has, since its outset, been predicated on compensatory measures to strength borders and control the mobility of unwanted third country nationals. Irregular migration trends, domestic politics, and the failure of Member State solidarity mechanisms mean a redoubled focus on externalized policies to divert irregular migration flows before they test European solidarity. The impetus for doing so has perhaps never been higher.

Throughout 2015 and 2016 Member States with internal Schengen borders increased surveillance and reinstituted border controls to intercept asylum seekers. Many faced the decades-long prospect of integrating their share of the close to one million asylum seekers. While always present, Euro-skeptic parties were ascendant in many Western European states in post-2015 elections, and focused their rhetoric on the threat of irregular migration. Though France’s Front National and the Netherlands’ Dutch Freedom Party lost in national elections in 2017, their electoral campaigns combined anti-Schengen and anti-refugee discourse. The Brexit “leave” campaign turned on a narrative that membership would leave Britain open to uncontrolled irregular migration from Europe’s external borders. Greece, in the aftermath of the economic crisis, struggled to cope with influxes of migrants arriving from Turkey and had become a holding area for over 60,000 asylum seekers from states with overwhelmingly high rates of approved asylum claims. The Višegrad states and Austria, led by Órban’s Hungary, embarked on a sustained campaign of opposition to Brussels-led migration solidarity mechanisms. But the scale and political repercussions of the 2015 crisis obscures the fact that it is only the latest development in an enduring, constitutive relationship between the European project and externalized migration controls, which then have a distinct impact on irregular migration systems.

3.4 The Post-Cold War Order and Emergence of Complex Irregular Migration

The politicization of asylum in Europe has proven remarkably durable. During the Cold War, every asylum claim from behind the Iron Curtain represented an ideological and political victory for Europe and “the West” more broadly (e.g., Moch 2003: 193; Barnett & Finnemore 2004: 83). Asylum during the period was a “Cold War sideshow” (Hansen 2003: 35). But the collapse of the USSR meant that “the military and economic dimensions of [Europe’s] security thus dropped to the bottom of the agenda while societal security (migration) and political aspects of security (Islamic fundamentalism and its terrorist spin-offs) climbed to the top” (Bicchi 2007: 132). European states
imposed more restrictive policies through national legislation, temporary protection regimes instead of permanent resettlement, carrier liabilities, expanded safe third country agreements, and rapid expulsion processes to keep would-be asylum seekers at bay (Thielemann 2004). More restrictive asylum regimes created “ripple effects” as neighbouring countries emulated new procedures, lest they be seen as a more favourable destination (Uçar 2002: 21).

3.4.1 Migration and Displacement in a Post Cold War Context

The end of the Cold War and Europe’s expansion into the post-Soviet sphere coincided with rather drastic changes in global conflict dynamics, transportation and communication technologies, and the International Refugee Regime. These trends combined to reshape migration to Europe, which shifted from a predominant East-West to a South-North axis. Even more salient to contemporary trends of integration and xenophobia was the “disintegration of the European colonial empires, which sent millions of colonial and post-colonial immigrants and return migrants to Europe” (Bade 2003: 217). From 1940 to 1975, 7 million colonists ‘returned’ to Europe and 5.5-8 million post-colonial subjects immigrated through systems of chain migration and family reunification. The period also saw an influx of guest-workers and their families (Castles & Miller 2009: 107-110). By the mid-1980s and into the 90s, populist politicians sounded the alarm on ‘floods’ of migrants and refugees who would overwhelm European welfare states at a time when the European project was faltering under the pressure of nationalist conservatism. As described above, the result was the push toward more comprehensive compensatory measures at Europe’s external borders and tightened controls throughout Europe.

Domestic distaste for asylum seekers from the global South meant changes in the international refugee regime writ large since destination states at the top of the North / South socioeconomic pyramid are the primary financial contributors to the regime’s institutions, with attendant influence over policy.\textsuperscript{30} The focus on keeping refugees in regions of origin represented a pivotal and arguably permanent shift in the way both states and international institutions conceptualized asylum. As Barnett and Finnemore argue, before the end of the Cold War “the organizational culture [of UNHCR] from the top down was geared toward resettlement and third-country asylum, and the

\textsuperscript{30} The case is complicated, however, by the independence and agenda setting capacities of the UNHCR (Barnett & Finnemore 2004: 93-94; Loescher et. al. 2008:73-75), the domestic legal apparatuses of signatory states, and in the case of EU states the supranational authority of the ECJ / ECHR.
conception of international protection as a legal bridge toward resettlement was consistent with that exilic bias” (2004: 83).

In 1993 Sadako Ogata, High Commissioner for Refugees, announced what had already become a major shift in UNHCR priorities, calling the 1990s the ‘decade of returnees.’ The announcement reflected a fundamental change in the content of burden sharing norms for Northern states away from hosting or resettling refugees toward financing UNHCR operations in host states (e.g. Chimni 1999; Loescher et. al. 2008). The protracted nature of conflicts and the fact that less than 1% of refugees were nominated for resettlement annually meant that refugees spent increasingly longer times in camps, resulting in intergenerational refugee populations contained throughout the global South. The burden for hosting was increasingly borne by neighbouring states, often characterized by similarly weak institutions and sociopolitical cleavages, meaning a distinct lack of capacity or popular support for absorbing refugees.

The result of shifting global conflict dynamics and UNHCR policies meant that an increasing number of refugees were trapped in “protracted refugee situations.” The majority of the world’s refugees (2/3) spend an average of 25 years as refugees, most often in neighbouring host countries characterized by significantly lower human development and state capacities. Eighty one percent live in global south countries; half of refugees are hosted in states with less than $5000 GDP per capita; and the 49 least developed states host 24% of the world’s displaced. The unequal distribution of burden illustrates the broader power dynamics in international refugee regime and in international migration relations more broadly.

3.4.2 The Global Reach of Europe’s Domestic Politics

The Schengen Area is fundamentally predicated on hardening common external borders (Huysmans 2000; Boswell 2003; Collyer 2006; Neal 2009). Seen in this light, the evolution of an ostensibly postmodern European space simultaneously entailed the entrenchment of a traditional Westphalian triad to Europe’s external frontiers (e.g., Zaiotti 2011: 84). “Schengenland” is a sovereign area, bounded by (albeit mobile) external frontiers, in which European citizens enjoy rights and privileges vis-à-vis all other third country nationals.31

31 Geddes & Money put the relationship succinctly: “[...] European integration is a process by which states cease to be wholly sovereign. This doesn’t mean that sovereignty has somehow ended, but that sovereignty (or the uses it is
In many ways, the demonstrable security risks of migration matter very little from a policy perspective, particularly in democracies. Rather, migration/security connections largely depend on whether states can shape in-migration according to its overall national interests and the perception of domestic constituencies (Adamson 2006: 168). State responses are largely based on the notion that governments ought to do something to control access to territory and political community (e.g., Rudolph 2006; Castles & Miller 2009; Boswell & Geddes 2011). As Gibney writes in his seminal work on liberal democracies and refugees: “the state is fundamentally an answer to the question of who is responsible to whom in the modern world: states are responsible to their own citizens” (Gibney 2004: 211). The policy implications of this relationship are particularly evident in states where leaders are beholden to regular, competitive elections. “As a consequence, the claims of outsiders are assessed by states, including liberal democratic ones [or, especially liberal democratic ones], through a logic that is exceedingly sensitive to the potential damage to its own authority involved in forcing its citizens to incur costs for the sake of strangers” (ibid). The emerging, and soon to be borderless EU gave this logic a novel spin and an increasing sense of urgency, driving home the need for EU-wide compensatory mechanisms.

Fears over uncontrolled mobility were not strictly the result of some innate European xenophobia. Hijackings, extremism, domestic left and right wing terrorism, transnational criminal networks, and a range of other very real security issues were, in fact, the impetus for the founding of the security-centred TREVI group in 1975 – which would eventually come to form the JHA pillar through Maastricht, and later the AFSJ under the Amsterdam and Lisbon treaties (e.g., Monar 2014). The development of Schengen’s compensatory measures allowed states to shift JHA priorities “up” to the supranational sphere and then “out” through externalized migration control measures with transit states (Lavenex 2006). Tighter immigration and asylum regimes and externalized policies would coincide with global changes to have major impacts on international migration dynamics.

3.4.3 Closed Immigration and Incentives for Irregular Migration Systems

At the same time as Europe began closing its asylum regime, the UNHCR, in response to massive increases in refugees in the global South, moved from what Barnett & Finnemore described as an

put to) has changed, or been ‘rebundled’. This rebundling can be linked to the ways in which European integration simultaneously removes, redefines, and creates new boundaries. It is not, never has been, and never will be a simple process of boundary removal” (2011: 37).
‘exilic bias’ to a culture of “formal and informal rules that made repatriation UNHCR’s preferred solution and in fact nearly synonymous with ‘protection’” (Barnett & Finnemore 2004: 75). In the immediate post-Cold War period (1992-1995), it is estimated that 4-5 million people moved into Western Europe (Bade 2003: 283). Southern Europe saw large-scale migrations from North and Sub-Saharan Africa, with many claiming asylum since other immigration channels had closed (Moch 2003). Enlargement to countries which had heretofore been part of the Soviet sphere and therefore refugee source countries would now be responsible for the management of Europe’s external borders. The Eastward shift of Europe’s external borders meant fundamental changes in irregular migration statistics given the distinction between EU citizens and third country nationals.

There is a rather robust scholarly consensus that closing regular migration channels to Europe helped create markets for human smuggling and contributed to the emergence of complex irregular migration systems (e.g., Bade 2003: 238; Boswell 2003; Moch 2003:192-93; Hollifield 2004: 899; Collyer 2006; Castles & Miller 2009: 201; Koslowski 2011: 12). As Ghosh argues, “the end of the asylum crisis in Europe in the mid-1990s, which was predicated on more restrictive application procedures and new laws, saw an almost equal increase in the number of irregular migrants” (2001: 18). For example, by 1995 there were 3.5 million IDPs in the former Yugoslavia, and an additional 2 million refugees in Europe (UNHCR Population Statistics). Interestingly, this was the first time in which the possibility of an EU-wide resettlement quota was floated, though it was blocked by Britain (the contemporary call for a resettlement key in response to the current crisis essentially mirrors Germany’s domestic model for distributing asylum seekers between Länder). Instead, Europe responded to the crisis in the Balkans with the first use of Temporary Protected Status, meaning that the majority of refugees from the wars would be sent back at the cessation of hostilities. The mid 1990s also saw the first significant instance of “boat people” to Europe as Albanian smugglers played a “daily cat and mouse game” with Italian and Greek border guards (Bade 2003: 311).

Protracted refugee situations, fewer options for international resettlement, and tightened immigration and asylum regimes gave rise to increasingly global and sophisticated markets for irregular migration. It thus became increasingly difficult to differentiate between asylum seekers and economic migrants. In the first place, significant numbers of irregular migrants are also refugees with due claims to international protection, but who have left their regions of origin, a phenomenon known as “irregular secondary movement” (e.g., Long & Crisp 2010). Most migrants apprehended at borders claim asylum as spontaneous arrivals, since, given the new focus on return, access to durable
solutions has essentially become dependent on access to the territory of Global North receiving states (Betts 2011a). Complex mixed flows, irregular secondary movement, protracted refugee situations, and smuggling networks are all part of a global migration / asylum / control nexus with overlapping legal and muddled analytical categories, the nuances of which matter very little to domestic constituencies worried about large influxes of people over uncontrolled borders.

The simple fact of migrant and refugee agency (Castles 2004) is enough to explain the newly-recognized though likely well-established phenomenon of “irregular secondary movement” whereby refugees undertake irregular journeys from camps in order to avoid a generation’s wait for the chance at third country resettlement (Long & Crisp 2010).32 “Mixed” migration flows mean individuals can gain and lose rights and protections along their journey as they shift from one legal category to another. Leaving UNHCR camps tends to mean the loss of refugee status for the duration of travel (UNHCR: 2007). As Betts argues “many people initially leave their country of origin for the purposes of labour migration but find themselves in need of international protection. Alternatively, people may leave their country of origin because of conflict but choose their destination on the basis of economic motives [...] In much of the world, access to asylum [...] has been premised on access to territory” (2011: 81-83). These new types of mobility occur against the backdrop of a system wherein return to countries of origin is virtually the only prescribed solution, in stark contrast to the situation of European refugees who were largely absorbed into host countries or resettled.

There are genuine historical correlations between successive European measures to control asylum and family reunification, tightened immigration regimes, Northern state policies driving the post-Cold War shift in the international refugee regime, and the emergence and development of irregular migration to Europe. In short, prohibition significantly contributed to market incentives for irregular migration. As my case studies illustrate, more recent extraterritorial migration controls in transit states, coupled with hardened borders, serve to push migration flows to paths of least geographical and political resistance, with varying impacts on transit states. Greater irregular migration pressure has meant an increasing reliance on control-oriented policies and extra-European compensatory measures. The result is not only a durable politicization of asylum and migration issues, but market incentives for smugglers and an increasing focus on calls for externalized controls. In this sense, the novelty of contemporary refugee crises wears rather thin. Rather, the European response is properly

32 Though the historical period is different and the irregular migration systems much more complex and well-developed, the majority of migrant respondents from my field work in North Africa and the Middle East have signalled that they spent some time in camps before enlisting facilitators.
understood as the culmination of longer historical processes which developed in tandem with, and as a constitutive part of Europe’s regional integration.

3.5 Conclusion

The 2015 migration crisis was not Europe’s first. Post-Cold War “asylum crises,” culminating with the breakup of Yugoslavia, led to broad distaste for asylum, disputes over burden sharing, and deep concern about admitting new members (Hansen 2003). Domestic politics created “ripple effects” as European states competed to be less favourable destinations (Uçarer 2002: 21). These changes coincided with development of Europe’s open border regime with attendant compensatory measures, comprised of internal solidarity and burden-sharing mechanism and externalized migration controls. In effect these compensatory measures reflected the uploading of domestic political sentiment to the supranational policy sphere.

European policymakers conceived of irregular migration as a security issue long before the full articulation of Schengen and the enlarged EU. Successive treaties and policy decisions pushed the issue further into the bureaucratized security sphere. The ad hoc responses to the post-Arab Spring influxes represented the culmination of almost two decades of (largely failed) attempts to formulate a coherent response to mass influxes. Instead, Member State behaviour was characterized by self-help behaviour and burden-shifting, creating a greater push toward externalized control measures.

The purpose of this historical sketch has been to chart the emergence and general dynamics of Schengen’s compensatory measures as related to asylum and irregular migration. My history is unique in that it offers an account of irregular migration governance as central component of the European project. Observed impacts on peripheral transit states are therefore likewise an inherent part of the development of that project. The following chapter takes up the task of developing a schematic of what has become a quite convoluted, complicated, and politicized policy field. Understanding specific external migration governance mechanisms will offer fully-informed substantive case studies.
Chapter 4  Bureaucracy, Securitization, and the Fortress Europe Trap: Irregular Migration Governance & the Limits of Control

4.1 Introduction

This chapter bridges my history of Schengen and its compensatory measures with the empirical case studies to follow. Its goal is to detail the bureaucratic structures and relevant actors in the irregular migration policy field and describe differentiated relations with accession and candidate states on the one hand, and non-candidate third countries on the other. The chapter illustrates how the EU’s securitized compensatory measures were developed and entrenched in the EU’s treaties, and illustrates that in the absence of membership incentives the EU does not exercise sufficient leverage to foster benign Europeanization in third countries. The chapter includes findings from interviews with EU policymakers and senior civil servants.

The first section describes the process by which migration and borders were framed as a predominantly security issue, how this affected the competences of the Commission in relation to other EU institutions, and the process of mainstreaming securitized compensatory measures in external relations. The second section presents a short history and taxonomy of Europe’s external migration frameworks. It argues that grand agendas and “global” approaches to include development and triple-win migration managements are often frustrated by a programming focus on securitized migration controls and insufficient leverage in third countries. The section concludes with a discussion of EU and Member States’ overlapping bilateral, multilateral, and regional frameworks for attempting to influence irregular migration systems. The third section looks at the differing interests and incentives between and among accession states and third countries eschews generalizations over European influence. Understanding the differentiation is important insofar for variation in Malignant Europeanization in my empirical case studies.

4.2 The Discovery of Irregular Migration: Securitization and Bureaucratic Politics

While individual European states had existing colonial and labour migration relationships with non-European states, the development of EU-level migration policy as a mode of managing the effects of a borderless Europe gave rise to control-oriented compensatory measures. Broad concerns around
uncontrolled migration came at a time when the European project was first developing its migration and border capacities as an actor in both domestic security and foreign policy. The period thus not only had a profound impact on the substance of supranational migration policy, but was also constitutive of the bureaucratic and intergovernmental structures of EU migration governance. As a high-level official from the Council told me, “With the [2015] migration crisis, [politicians] openly say that migration will determine how Europe develops as a project. Of course the political salience is now much higher. The stakes are greater. But the truth is it’s always been there.”33 Securitization of the policy area is the default position, with profound effects on compensatory measures. Compensatory measures which, according to official policy framing, take into account the positive effects of migration, intra-Europe burden sharing, and a common approach to asylum are fundamentally underdeveloped in comparison.

4.2.1 The Bureaucratic Securitization of Irregular Migration Governance

EU irregular migration governance was bureaucratically securitized, by which I mean simply brought into the sphere of security policy, through three interrelated processes.34 The first is a relatively simple story of path dependency. While the migration crises of the 1990s sharpened the focus, the groundwork for a JHA focus had been laid a decade earlier. “In many ways [the control-oriented approach] was a natural continuation of a Europeanization of migration control that was already under way. Since the mid-1980s, EU and especially Schengen officials had been intensifying police and judicial cooperation to combat irregular migration” (Boswell 2003: 622 emphasis added). Just as in the contemporary refugee crisis, Interior Ministry security concerns drove policy development around external relations.

Second, the process of negotiations over the European project, particularly the Intergovernmental Conferences (IGCs), allowed Member States to upload domestic migration concerns to the supranational level. As Geddes and Money argue, “the development of EU migration and asylum is not indicative of states losing control or surrendering sovereignty, but of them trying to reassert control and seeking new ‘venues’ at supranational level that facilitate control efforts” (2011: 87).

Third, there was a real need to address the fact of a common external frontier as a compensatory mechanism for Schengen in light of upcoming 2004 and 2007 enlargements (Lavenex 2006; Haddad

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34 This study is not concerned with the discursive modes of securitization, which have been covered elsewhere. For example see Huysmans & Squire 2009 and Lahav & Lavenex 2013.
2008; Balzacq 2009). While discussions about compensatory measures had been going on for at least a decade, the EU’s eastward shift was a major impetus for developing a coherent approach to border, asylum, and irregular migration governance (Jileva 2002). Enlargement meant new external borders, a larger cohort of European citizens, and the inclusion of new Member States with more tenuous socioeconomic and political situations. Moreover, Central and Eastern European (CEE) accession states would be responsible for managing access to Schengen. The situation thus required far more robust burden-sharing, supranational coordination, and domestic reforms around asylum, borders, and immigration in accession states. Amsterdam brought about full freedom of movement for European citizens, and incorporated Schengen into the broader EU *acquis*, meaning direct Europeanization through compulsory changes to domestic laws and bureaucratic structures in accession states (Lavenex & Uçarer 2004; Grabbe 2014).

**4.2.2 The Predominance of JHA in Migration Policy Development**

There is wide agreement among scholars that the 1999 Special European Council on Justice and Home Affairs at Tampere was a turning point in external migration governance (Huysmans 2000; Boswell 2003; Bigo & Guild 2005; Lavenex 2006). Convened in the midst of the Kosovo crisis, Tampere was almost wholly devoted to security, irregular migration, and asylum; it called for the creation of the Area of Freedom, Security and Justice (AFSJ) inside Europe, and linked Justice & Home Affairs policies to the Common Foreign and Security Policy (CFSP) as a means of protecting it from external migration pressures. Its “extraordinary” nature drew significant criticism for excluding civil society, NGOs, and rights groups in an era where EU institutions were ostensibly trying to become more inclusive and bringing the Union “ever closer to the people”.

Tampere represented an important early declaration placing migration within Europe’s foreign policy agenda. Its final communication stated that the externalization of migration policies towards regions of origin would seek to curb migration flows by addressing

> political, human rights and development issues in countries of origin and transit as well as by recognizing the need for more efficient management of migration flows at all stages [...] To that end, the Union as well as Member States are invited to contribute [...] to a greater coherence of internal and external policies of the Union.\footnote{Statewatch. September 2003. “the Story of Tampere.” Available at: http://www.statewatch.org/news/2008/aug/tampere.pdf} \footnote{Presidency Conclusion, European Council, Tampere, 15-16 October 1999, paragraph 11. Available at: http://www.europarl.europa.eu/summits/tam_en.htm}
The substance of discussions focused almost wholly on security arrangements and the connections between spontaneous asylum arrivals and human smuggling gangs. The security-centric focus was a reflection of broader trends in policymaking. By 2003 JHA policy comprised 40% of new legislation in the EU (Moreas 2003). Despite the calls for a more “global approach” to migration (taken up in detail below), by 2015 JHA-type programming accounted for over 80% of the budget for third country migration relations (García Andrade & Martín 2015). These numbers match a general trend wherein the JHA policy field is among the fastest growing policy areas, with the Commission adopting over 100 texts per year between 2000-2010 (Monar 2014: 613).

One frequently overlooked aspect of Tampere was that it established the model of five-year plans for EU-wide JHA policy, coinciding with the appointment of a new Commission president. The idea was to minimize differentiation and engage with third countries qua Europe (Balzacq 2009; Wunderlich 2010). From an analytical perspective, common JHA work plans make it more appropriate to speak of the EU as a unitary actor in its orientation toward migration relationships with third countries (McNamara 2015). The subsequent Hague Programme (2005-2009) expanded the focus by calling for the development of a Common European Asylum System (CEAS) and a coherent framework for incorporating JHA priorities into all Association Agreements with third countries, particularly around cross-border crime, terrorism, and migration. It also led to the first European Neighbourhood Policy, discussed in detail below, which sought to implement a “normative power” agenda toward Europe’s neighbours to the East and South. The ENP also meant that JHA-centric migration priorities would be streamlined into conditionality-based Action Plans with third countries.

The Hague Programme reinforced the bundling asylum and irregular migration with terrorism, organized crime, and trafficking (Buono 2009). It also deepened interactions with sending and transit countries by exporting border management expertise to fight “illegal” migration in third countries and a focus on incentivizing readmission agreements for failed asylum seekers. While it also recognized the need to develop European solidarity and common asylum procedures, the external focus proved far more politically expedient for the Commission and Member States.

37 Other works see the emergence of the EU as a coherent foreign policy actor only after Lisbon through the creation of the office of the High Representative - that is, when the EU enjoyed official diplomatic recognition by other sovereign states (e.g., Saurugger 2014).
38 In addition to the lessons from the 2004 and 2007 enlargements the ENP’s focus on good governance, rights, and market capitalism as a mode of ensuring European stability set the frame for the broader Europeanization and Normative Power Europe literature.
The subsequent 2010-2015 Stockholm Program directly linked the health of the AFSJ to the development of the CFSP and streamlined JHA-focused migration priorities into external relations. Coinciding with the appointment of the Juncker Commission, Stockholm paid special attention to close collaboration with UNHCR, tackling smuggling and trafficking rings, and pushing hard for common return directives inside the EU, coupled with incentives for readmission agreements with transit states. Junker reorganized the Commission and rechristened DG Home as DG Migration & Home, reflecting the migration mainstreaming approach. While Stockholm emphasized circular migration schemes, harnessing the benefit of migration, and working with sending regions to limit the impacts of brain drain (see the discussion on the HLWG and GAMM below), in reality the political challenges of the era meant that external actions were, perhaps more than ever, reactive to immediate shocks.

The Stockholm period was a challenging time for European solidarity, particularly in regards to open borders, irregular migration, and asylum. The 2008 financial crisis reinforced notions of Europe as an unequal core/periphery system. The Arab Spring proved Member States more than willing to pass the burden of large-scale influxes on to one another. The 2015 migration crisis proved the intra-European aspects of the CEAS unable to ensure solidarity and burden-sharing. The wider result, explored more fully in subsequent chapters, was not only a crisis of the European project, but a doubling-down on external migration controls in an effort to relieve the pressure on Europe’s open border regime: a rearguard action of more intensive externalized compensatory measures.

Given the importance of the compensatory measures, it is no surprise that JHA policies are the fastest growing and most significant “construction site of the European project in terms of policy areas covered, number of treaty objectives, and action plans in various fields” (Monar 2014: 624). The restrictive measures of external borders, particularly border controls, standards of surveillance, information sharing, and common procedures for returning failed asylum seekers and third country national to countries of origin, are the most prevalent modes of Schengen’s external compensatory measures.
4.3.3 Institutional Competences, Bureaucratic Competition, and External Migration Governance

There is a rather broad literature on the EU’s *actorness* in external relations dating back to the 1970s (for overviews see Börzel 2013; Niemann & Bretherton 2013); including the role of mediating institutions and experts (Caporaso 2007; McNamara 2015; Kaiser 2016); and the civilian / normative power of Europe (Manners 2010; Hyde-Price 2006; Orbie 2006). EU institutions took on a significant role in JHA policy development in the context of impending open borders and enlargement in the mid 1990s. The Commission came to play a dominant role in external migration policy given its competencies over JHA affairs, pre-accession programming and compliance monitoring, and engagement with third countries over migration management. In addition, Amsterdam moved asylum and migration matters to the first, communitarized policy pillar, giving the Commission (and later the Parliament) more direct control over policy development and programming.

The Council is a venue for Member States’ collective agenda-setting. Its normal functioning is based around issue-specific bargaining by policy experts from Member States. Its organizational culture prefers consensual outcomes through reciprocal support in cases where one Member State has a strong preference. As Lewis describes it, the Council is “an institutional setting for interstate negotiation which fosters a norm-rich, consensus-inducing social environment for joint decision-making” (2014: 323). It has a strong preference for informal or closed-door meetings, away from domestic audiences which could potentially incentivize political posturing (for an overview see Naurin & Wallace 2008). Thus the Council’s decision-making culture and its role of approving Commission strategy and programming means the Commission generally has the seal of approval of those Member States which will be most affected by a given policy field.

Within the Commission, DG Migration & Home has the most consolidated competences over irregular migration policy, after a history of internal bureaucratic competition between the DGs (Wille 2013). In terms of migration policy, DGs JLS (now DG Migration & Home) and DG RELEX (now the European External Action Service - EEAS) competed over external relations competencies in the early years of policy development (Wunderlich 2010; Papagianni 2013).

One of the more novel findings from my research is that the situation persists today not only between the Commission and the EEAS (though the former dictates the majority of policy given both their purview over JHA and accession policies) but also between the different DGs with external action
mandates. In addition, policymakers and civil servants with long experience with third countries consistently highlighted the lack of influence and benchmarking for benign Europeanization in non-candidate transit states. Within the Commission there remains a good deal of ethical resentment from other DGs around the JHA focus on Schengen’s compensatory measures. Nonetheless, the structure of EU governance makes the focus a fait accompli. As a high level-respondent from the Council explained the situation,

The overall policy framework is set by the Council, through the Member States. Concerns about security, borders, and mass influxes of people start with interior ministers. It’s only natural that home affairs personnel take the lead. Of course this might undermine the EEAS and upset some Parliamentarians, but it’s how we make the whole thing work. The EU might be post-modern, but states still have security concerns. Not to mention the fact that heads of state need to get elected. So there you have it. 39

As described above, domestic politics are uploaded not only into the policy preferences of the Commission, but are also constitutive of its structures.

One of the main goals of my interviews with EU personnel was to understand the decision-making behind compensatory measures given the divergence between Europe’s stated foreign policy goals and the reality of the securitized approach. Commission personnel outside DG Home lamented the budgetary control over agreements with third countries, solidarity funding facilities, and programming. But more often they criticized the securitized approach. As a respondent from DG NEAR stated quite succinctly, “If you ask me, DG NEAR and DG DEVCO’s job on this issue is often about protecting migrants from DG Home.” 40 Likewise, Parliamentary personnel consistently drew attention to the fact that major political decisions impacting the future of Europe are taken in closed door meetings by unelected civil servants at DG Home. According to one MEP working on the issue, “You have the image of security-oriented technocrats making decisions about how the whole of Europe will interact with authoritarian states. Their entire framework is about protecting Europe from desperate people, with no accountability.” 41 These criticisms tend not to be well-taken by DG Home personnel. “The Parliament is interested in migrants’ rights and rule of law. So are we. But we also see the big picture and a secure Europe comes before the full human rights for migrants in North Africa. We can’t change authoritarian states. Our job is protecting Europe, protecting the treaties, protecting the project.” 42

41 Interview with MEP (LIBE Committee). May, 2013. Brussels.
Likewise, personnel from the Commission complain about Parliamentary overreach after Lisbon. DG Home personnel see rights-based policy agendas as hampering efficient policy responses. “It’s impossible to satisfy the ‘no borders’ crowd. External borders are part of the Schengen agreement. No external borders, no Schengen. The rule of law connection is built in [to external relations], but we can’t dictate what goes on in third countries.” Three high-level respondents from across the Commission argued that the Parliament seemed more concerned with nutritional and sanitary conditions of refugee transit camps than on keeping the European project from fracturing. Inter-institutional and intra-Commission competition notwithstanding, the fact that DG Migration & Home maintains relatively comprehensive control over the issue area means an ever-more narrow JHA focus, truncating the role for other policy options.

4.4 Policy Frameworks & External Relations: Common Agendas & Muddled Competencies

The JHA focus militates against the EU’s stated goals around irregular migration which ostensibly focus on wider approaches addressing “root causes,” including development programming to stop out-migration, and changes in domestic institutions in line with international protection standards so as to justify safe third country and safe country of origin designations. Informal goals include compliant regimes with a readiness to accept material support for containing refugee and migration flows.

4.4.1 The European Neighbourhood Policy & Bilateral Migration Agreements

Conceived of as a corollary to the post-Cold War Eastern enlargement, the EU and Member States conceived of the European Neighbourhood Policy (ENP) as a way to offset new divisions between accession states and Europe’s new peripheries, as well as to provide a general framework for Member states and EU institutions for actions with third countries. Originally called the “Wider Europe” plan, its stated objective was to foster stability through soft power. According to the Commission, “The best protection for our security is a world of well-governed democratic states. Spreading good governance, supporting social and political reform dealing with corruption and abuse of power, establishing the rule of law and protecting human rights are the best means of strengthening the international order” (Commission 2003). It thus framed the EU’s foreign policy in

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contradistinction to the competing Anglo-American neoconservative regime change approach as part of post-9/11 war on terror.

The original Communication on the ENP stipulates the same variables and presumed causal mechanisms as does much of the benign Europeanization literature. It describes both its policy orientation and desired outcomes towards its neighbourhoods:

Privileged relationship[s] with neighbours will build on mutual commitment to common values principally within the fields of the rule of law, good governance, the respect for human rights, including minority rights, the promotion of good neighbourly relations, and the principles of market economy and sustainable development (Commission 2004).

The ENP’s “third way” between membership and exclusion promised to extend some of the positive outcomes of enlargement to non-accession states, but without the ultimate incentive of membership (Haukkala 2011: 55). The revised “more for more” approach sought to incentivize progressively deeper reforms through gradual access to EU funding, market access, and mobility agreements. Its official goals were deep institutional transformation, with the goal of creating a “[...] a ring of countries, sharing the EU’s fundamental values and objectives, drawn into an increasingly close relationship, going beyond co-operation to involve a significant measure of economic and political integration.” As Jeandesboz argues, “the rationale for the ENP lies within the very orientation of the European project, and transforms the neighbourhood into a crucial stake for the political becoming of the EU and its influence on the world” (2009: 40). It thus sought to serve the dual purpose of fulfilling the EU’s normative self-image while achieving the security goal of stability in Europe’s near-abroad.

The ENP divides Europe’s near-abroad between Eastern and Southern Neighbourhoods. The mode of interaction is through specific third-country Association Agreements and Action Plans, which establish policy priorities and programming criteria. There are currently 16 partner countries, which form a comprehensive ring around Europe’s peripheries. Partnerships are subdivided between Justice, Police, and Migration, and designed to lead to bilateral Association Agreements and eventually concrete 3-5 year Action Plans resting on strong conditionalities.

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44 Defined as Algeria, Armenia, Azerbaijan, Belarus, Egypt, Georgia, Israel, Jordan, Lebanon, Libya, Moldova, Morocco, Occupied Palestinian Territory, Syria, Tunisia, and Ukraine.
45 Algeria, Armenia, Azerbaijan, Belarus, Egypt, Georgia, Israel, Jordan, Lebanon, Libya, Moldova, Occupied Palestinians Territories, Syria, Tunisia, and Ukraine.
Under the 2005-2009 Hague Programme, JHA and migration priorities were to be incorporated into all Association Agreements and Action Plans. Agreements are based on periodic Progress Reports, as dictated by the Commission, with a significant focus on JHA compliance. The EU’s overwhelming trade, aid, and mobility incentives mean that “the objective and the means are non-negotiable and the only times when the partners would be consulted is when the individual action places with clear benchmarks and time tables are being agreed upon” (Haukkala 2011: 56). Overall frameworks and Progress Reports focus on changes in governance, rule of law, and rights as a reflection of the “mutual commitments” to “common values”. The intervening decade has revealed these commitments as largely aspirational given the lack of credible membership incentives.

While the drive for institutional isomorphism reflects a certain normative commitment to the trajectory of the European historical experience, it is nonetheless rooted in the Commission and Council’s formal purpose of protecting the European project (Dobbin et al. 2007). Officially adopted in 2005, the ENP formally merged the internal and external security spheres since “the EU derives external competence on migration from internal competences in the area of justice and home affairs” (Reslow 2015: 478). The 1990s had sharpened the EU’s focus on spillovers from neighbouring regions beset by endemic corruption, poverty, and unresolved ethnic and territorial disputes. According to the Patten and Solana Communication on the rationale for the ENP: “While there are important opportunities to explore closer ties with [countries new neighbours such as Moldova and Ukraine], there are also challenges in areas like illegal migration, trafficking and spillovers from local or regional crises” (quoted in Jeandesboz 2009:44). Irregular migration was foremost on the agenda; and Association Agreements and Action Plans were therefore a prime vehicle for externalized compensatory measures (Fanlo & Abellan 2008; Balzacq 2009; Reslow 2015). Emerging irregular migration trends in the Mediterranean were as much a part of the ENP as the concern for new movement resulting from Eastern enlargement. The ENP is thus a clearly-articulated manifestation of Schengen’s compensatory measures.

Influencing third country policies through bilateral arrangements quickly became a dominant policy. The externalization of JHA priorities was driven by the strategic and political calculation that the AFSJ could best be ensured by increasing the capacity of third countries to contain irregular migration flows (Balzacq 2009: 3). While relevant funding and program mechanisms are too myriad...
to list here, a central instrument by which the EU attempts to directly influence third country migration policies is through “migration missions” comprised of Commission and Member State personnel, with the goal of developing third country capacities to “European standards” (Cardwell 2013: 60). A primary goal is to push for European Readmission Agreements (EURAs), which are the sine qua non of any hope for negotiating broad visa liberalization or leveraging development funding. EURAs are hard law instruments with the force of treaties. The EU has concluded readmission agreements with 19 countries to date.

At the next level of engagement, Mobility Partnerships (MPs) are non-binding, broad political frameworks for dialogue and cooperation over (predominantly irregular) migration issues between the Commission, Member States, and a third country (Parkes 2009; Reslow 2012; 2015b). MPs show a clear preference for Europe’s immediate peripheries and states in irregular migration systems. The majority of funding for MPs is delivered through the European Neighbourhood Instrument (ENI), the main funding instrument of the ENP. Subsequent funding is provided by the Commission’s different DGs, the EEAS, and Member States.

The MPs are a key indicator both of the EU’s overall priorities in irregular migration governance, and the incentive structures outside of membership. Third countries must commit to “cooperating actively” with the EU on irregular migration management, including readmission of their own and third country nationals. In return, the EU offers the promise of eventual visa liberalization, usually around specific professional or labour designations. However, visa liberalization schemes must be offered by participating Member States, which raises analytic and political problems for the EU to offer credible incentives for compliance. What the EU offers most readily is training through exchanges with Frontex liaison officers, security advisors for border management, legal expertise for aligning domestic legislation around smuggling and trafficking, and funding to cooperate with the IOM on return procedures and campaigns to dissuade out-migration, and with UNHCR to improve protection standards.

Readmission agreements and Mobility Partnerships ostensibly include rights clauses, governed by Article 8 of the Lisbon Treaty. However, rights provisions are not matched by any specific oversight

47 Albania, Armenia, Azerbaijan, Bosnia and Herzegovina, Cape Verde, Georgia, Hong Kong, Jordan, Macao, Macedonia, Moldova, Montenegro, Morocco, Pakistan, Russia, Serbia, Sri Lanka, Tunisia, and Ukraine.
mechanisms. A number of policymakers I interviewed saw the MPs as missed opportunities to provide real incentives for benign Europeanization. As a senior civil servant from DG DEVCO told me, “It’s to the point now where we’re signing MPs strictly for the sake of conditionalities on irregular migration. We’re losing the first real leverage we’ve had on domestic rights and rule of law. A lot of people outside DG Home can’t get behind that, but at the end of the day it’s what Member States want.” Officially, MPs are supposed to represent a flexible policy frameworks as a “living document” (Papagianni 2013: 289). Respondents from within the Commission had a far different understanding. As a respondent from DG DEVCO explained,

> [Mobility Partnerships] are supposed to be dynamic, but that’s not how the programming or the politics work. It’s hard enough to get a transit state to sign one without any concrete promises. Then you’re going to change the programming structure? No way. A Mobility Partnership is a snapshot, an image of some of a situation and set of priorities from a specific time. They won’t age well [...] MPs are not a smart external policy but to date it’s the best we’ve come up with.

MPs are intensely political given their focus on border controls and the return of third country nationals. Compliance costs are thus high for third country governments, which not only have to agree to take in third country nationals who have transited through their territory, but to make demonstrable gains in border management. The very same domestic logics that drives anti-Brussels sentiment in Europe also exists in third countries. Offering sufficient incentives for signing an MP must outweigh domestic political costs - a high barrier for benign Europeanization. Thus the policy framework and demands remain narrowly focused on JHA compliance.

### 4.4.2 The High Level Working Group and Global Approach to Migration & Mobility

Despite the narrow JHA focus of bilateral agreements, compensatory measures are framed in terms of a more “global approach” to irregular migration management. First convened in 1998, the High Level Working Group on Asylum and Migration (HLWG) was the culmination of a series of proposals and plans from the Commission and Member States to establish early warning systems and migration “observatories” to predict migration trends (van Selm 2002). It represented an effort at a “cross pillar” approach to irregular migration. Officially proposed by the Dutch Presidency, it followed in the wake of the 1998 the Austrian Presidency, which circulated a confidential (and notorious) Strategy Paper advocating for abandoning the responsibilities of the 1951 Refugee Convention in favour of aggressive intervention in refugee producing countries, more development

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aid, and working to raise human rights standards in transit states. The Dutch proposal framed the need for the HLWG around the fact that Southern European states faced large influxes of “illegal” migrants, while Northern states dealt with large numbers of asylum seekers whose claims are rejected. The differentials thus required a common European response and overarching framework for engaging third countries.  

The HLWG was created before Amsterdam, and so, like JHA policy development in general, was attended by Member State civil servants from the security and judicial spheres, further fuelling suspicion from asylum rights NGOs around the fact that JHA officials, rather than development, refugee, or diplomatic personnel were formulating an essentially foreign policy and development issue from a security-centric framework. As Boswell (2003) argues, the major problem with original HLWG dynamic is that it was comprised almost entirely of officials who only ‘knew’ European security, and so ignored development or conflict prevention. Its first deliverable, presented at Tampere, was a series of Action Plans, focusing on major transit and origin states. These plans focused little on conflict prevention and development and more on exporting migration control measures such as airline liaison officers, carrier liability legislation, anti-migration information campaigns, and readmission agreements (Castles 2004: 219). The Action Plans were almost entirely rejected by the third countries (with the exception of Sri Lanka which had its own reasons for stopping the out migration of predominantly Tamils) given that they were not consulted in their drafting, and were merely presented with complete documents listing EU priorities.

In 2005, the HLWG introduced the Global Approach to Migration (GAM) as an admission that exclusively securitized approaches were not producing the desired dividends. The HLWG and the Council had learned their lessons from the failed, unilateral Action Plan model; instead “the countries around the EU’s periphery, including the Balkan and Mediterranean countries, should not only be seen as potentially being in the target group, but also partners which should be engaged in the process of controlling and regulating migration” (van Selm 2002: 149). After Lisbon, when the Parliament gained more oversight over external migration policy, the GAM was rechristened as the Global Approach to Migration & Mobility (GAMM), with a greater focus on developing mutually beneficial “synergies” for the EU and third countries. The GAMM was to provide a framework for external migration governance in the same way that the ENP framed overall foreign policy.

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50 One of the core functions of the HLWG was to be to act as an information hub and coordination centre between EU institutions and Member States. To date the HLWG has not fulfilled this part of its mandate.

51 The HLWG prepared Action Plans for Afghanistan/Pakistan, Albania, Morocco, Iraq, Somalia, and Sri Lanka.
objectives. Thus Mobility Partnerships, EURAs, Visa Facilitation Agreements, Regional Protection Programs, etc. also ostensibly fall under the framework of the GAMM. It is based on four pillars: 1) Organizing and facilitating legal migration & mobility; 2) Preventing and reducing irregular migration and trafficking in human beings; 3) Maximizing the development impact of migration & mobility; 4) Promoting international protection and enhancing the external dimension of asylum policy.

The GAMM is ostensibly guided by partnerships and dialogue around “common values” of democracy, human rights, rule of law, good governance, free market principles, and sustainable development. As Geddes argues, “the devil, of course, is in the details. [...] What do ‘partnership’ and ‘dialogue’ mean? Is this a partnership of equals? Is it a dialogue of the deaf?” (2011: 93). The range of bilateral and multilateral processes almost universally involves engagement with non-democratic, authoritarian, and overtly oppressive states where membership incentives are entirely absent. For example, the Khartoum Process, also known as the “EU-Horn of Africa Migration Route Initiative,” includes Eritrea, Ethiopia, Somalia, South Sudan, Sudan, Djibouti, Kenya, Egypt, and Tunisia – states not normally associated with said “common values” but which comprise the sending and transit states in the Central Mediterranean irregular migration system.

Under the GAMM, Action Plans now take the form of “Migration and Mobility Dialogues,” and “Common Approaches to Migration and Mobility” (CAMM) agreements with African states not likely to receive any reciprocal mobility rights. While the dialogues include cooperation and consultation with IOM, UNHCR, the Red Cross, as well as civil society, the desired effect remains to limit irregular migration pressures on the EU. Most significantly from an analytic perspective on Europeanization, funding and programming reflect the continuing and overwhelming focus on JHA priorities. The second pillar (preventing and reducing irregular migration) accounted for 84% of all programming for the 2003-2014 period, during which time only €1 billion was allocated to the entirety of external actions on migration governance (García Andrade & Martín 2015: 10). The EU’s singular €6 billion deal with Turkey should put this sum into proper perspective. Likewise, my interviews with policymakers from the Council, Commission, and EEAS found that the “circular migration” and “migration / development” nexus aspects of the GAMM receive little to no institutional support. The result is that the effects of Schengen’s compensatory measures in third countries are almost entirely malignant.
The majority of the funding in the legal migration pillars goes to information campaigns on migrants’ legal options, campaigns to dissuade would-be irregular migrants, and funding some social security programs rather than creating new migration options (Reslow 2015: 482). “Even development issues were primarily dealt within the framework of a strong security oriented policy” (Papagianni 2013: 291). The result, according to Geddes, is that “the EU’s international migration relations have thus far been dogged by difficulties creating issue linkages, i.e., connecting migration to aid, trade, and development and not simply security concerns that arise from EU desire to tighten control on ‘unwanted’ migration flows. Dialogue has thus been partial and partnerships asymmetrical” (2011: 95). The lack of funding and programming for development, circular migration schemes, and access to the European labour market means the cross-pillar approach has not been truly tested.

4.4.3 The European External Action Service and the Common Foreign & Security Policy

On a more global level, the majority of EU trade, development, or aid packages include at least a clause, if not direct conditionality, on irregular migration and readmissions/returns (Düvell & Bastian 2009: 8; García Andrade & Martín 2015). Once again, the origins of the policy focus can be traced to earlier proposals from Member States. In the lead-up to the 1999 Seville Summit, Spain and Britain made a joint push to make all development aid conditional on migration cooperation (Boswell 2003: 637). The goal was to make external compensatory measures more enforceable by introducing strict compliance criteria and imposing secondary sanctions for non-compliance (Balzacq 2009: 26). The final text was significantly watered down since the all-conditionality approach would likely increase the distance between Europe and its near-abroad. Nonetheless, the mainstreaming mobility agreements became a prominent feature of Europe’s wider international relations, and standardized clauses on migration are regularly inserted in agreements with third countries.

The Amsterdam treaty gave the new role of the High Representative, in a troika with the Council Presidency and a representative from the Commission, the power to negotiate international agreements in pursuit of the AFSJ and JHA policies (Bindi & Angelescu 2012: 33). In 2009 the Lisbon Treaty formally established the European External Action Service (EEAS) and created the role of the HR/VP to serve as a diplomatic and foreign policy establishment for the EU as an autonomous legal personality.
Launched in December, 2010, the EEAS merged the roles of DG RELEX from the Commission and the external relations roles from the Council. The EEAS is chiefly concerned with implementing the Common Foreign and Security Policy, which describes the immediate security threats to the AFSJ as “terrorism and organized crime, proliferation, natural disasters, regional conflict, security energy supply, climate change, [and] illegal migration.” 52 By all accounts, however, the EEAS remains hampered by budgetary constraints, oversight from the Council and Parliament, and pre-existing competencies over external actions in the Commission. The HR/VP office “has no formal authority over the commissioners who deal with foreign-affairs related matters, such as enlargement, commerce, and development cooperation” (Verola 2012: 44). Indeed, as one migration-focused officer told me: “A lot of the time when I’m in East or North Africa I just say I’m from the EU or from [my state of nationality]. There’s often not a point in mentioning the EEAS – our counterparts there don’t know what it is.” 53

At an operational level, very few EEAS Delegations have migration experts, and instead rely on IOM, UNHCR, and Frontex personnel for expertise. The EEAS remained sidelined in relation to the Commission, Council, and Member States when it came to external actions on migration until the spring of 2015. VP/HR Mogherini took the lead on the European Agenda on Migration, calling for a more resolute focus on streamlining irregular migration priorities into all relations with third countries. 54 She specifically used the protection of the AFSJ to advocate for military solutions in the Mediterranean, and took the step of approaching the UN Security Council for a resolution authorizing military intervention in Libya in order to attack smuggling operations. The request was denied and Mogherini was roundly criticized by rights groups and IGOs, including UNHCR.

However, the new European Agenda on Migration included new funding and a new plan for regional migration management. Migration issues dominated the November, 2015 Valletta Summit with African transit states, at which the EEAS announced the so-called “Trust Fund for Africa,” which privileged migration governance and rechristened ideas for Regional Protection Programmes and Regional Development and Protection Programmes.

The main idea of the trust fund is to use financial leverage and the promise of aid to develop the protection standards of sending and transit states to sign legitimate readmission agreements for irregular migrants and asylum seekers with legitimate claims for international protection. In interviews in Brussels, shortly after the Valletta summit, one respondent who worked on the proposal stated, “It’s a little bit of a charade. [The trust fund] is old programming money repackaged. And it creates these classically perverse EU structures where third countries try to access two pots of program funding for the same projects.”\textsuperscript{55} Other EEAS officials pointed to the fact that the total value of the trust fund was €1.8 billion, spread over several states, much of which was already accounted for in other programming. In short the EEAS remains somewhat of a non-entity in the realm of external migration governance.

\textit{4.4.3 Regional Approaches}

The Commission runs several regional dialogues and consultative processes for non-binding discussions and cooperation on sovereignty-laden issues with non-candidate third countries. As Hansen notes, third countries tend to prefer open-ended dialogues and consultations on issues relating to borders and migration (2010). As a Frontex respondent in charge of international programming noted, “the main tactic [for leverage] is to appeal to the self-interest of transit states. It’s mostly done through bilateral agreements. The regional dialogues and all of that are just ways to maintain relationships.”\textsuperscript{56}

The Barcelona Process, first launched in 1995, began with the somewhat lofty notion of launching a Mediterranean free trade zone in order to foster institutional isomorphism by following Europe’s post-war trajectory (Bindi & Angeleascu 2012). Since then, the EU and Member States have refined and narrowed RCPs to focus on migration and border controls. Early consultations were essentially a top-down process dictated almost exclusively by European interests in JHA priorities. Third country uptake was low. The Barcelona Process was rolled into the wider Euro-Mediterranean Partnerships, developed in recognition that the regional process was failing in producing the desired security dividends. The general goals of the regional processes was laid out in the Association Agreements with Tunisia (1998) and Morocco (2000) “which gave the issue of irregular migration first priority in

\textsuperscript{55} Confidential Interview with EEAS Personnel. December, 2015. Brussels.

\textsuperscript{56} Interview with Frontex Personnel (Risk Analysis). June, 2013. Warsaw.
the social fields” (Lavenex & Uçarer 2004: 433). The Euro-Med Partnerships were, in turn, subsumed into the wider ENP South, with more focused bilateral consultations.

The different dialogues in both the Eastern and Southern neighbourhoods focus on controlling irregular migration and trafficking.57 A respondent from the ICMPD, one of the EU’s main implementing partner for regional dialogues, framed the dividends of dialogues as an opportunity for the EU to dictate the framework for cooperation: “They matter in terms of letting transit states in on the idea that it’s a regional issue that can’t just be tackled at a bilateral level. It also offers the EU a vehicle to export its vision of how regional cooperation might work. The transit states get a chance to ask for money for training and programming. And the international organizations build their relationships with transit states.”58

Finally, the EU has consistently pushed for what it calls Regional Protections Program designed to enhance standards in refugee sending and transit areas, with the fundamental goal of ensuring that refugees do not undertake irregular secondary movements. Pilot RPPs were developed for Ukraine, Moldova, Belarus, and the African Great Lakes region. However, the most significant focus is now on North Africa, Afghanistan, and the Horn of Africa – the major areas of origin and transit for irregular migration to Europe. Though the EU (and its UNHCR partners) have yet to officially admit as much, fully developed RPPs would allow for the mass return and readmission to transit states, with regional processing centres to vet asylum seekers for resettlement.

Of course, proposals for RPPs and development in sending regions is neither entirely cynical nor out of touch with concerns of host states. As discussed in Chapter 1, large refugee populations can prove destabilizing for host countries on a number of counts. The 2003 Communication which announced the RPPs reads: “A reduction in the numbers of asylum seekers in the EU does not necessarily mean an overall reduction of the numbers of refugees and persons seeking international protection at a global level and it is clear that there remain many regions and countries in the world where human rights violations and consequent displacement cause protracted refugee situations, with still some

85% of these persons being hosted by the under-resourced neighbouring countries in regions of origin” (cited in Haddad 2008: 7).59

4.5 Policy, Incentives, and Compliance: Varying Influence in Transit States

My case studies cover the range of irregular migration systems which share Europe as a common destination, and are comprised of Member States, candidates, and third countries. Europe exercises different leverage on each. Its influence on transit states depends on the differentials between incentives and target state characteristics, but without the ultimate membership incentive it is unable to foster the fundamental transformations associated with benign Europeanization.

4.5.1 Mobility and Borders in Accession States and Third Countries

The 2007 Lisbon Treaty set out the criteria for accession. Article 49 reads: “Any European State which respects the values referred to in Article 2 and is committed to promoting them may apply to become a member of the Union.” Article 2 sets the foundations for the EU’s normative self-image and domestic political organization as “founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities.” These normative criteria were previously set out in the 1993 “Copenhagen Criteria,” which identified “stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities” as *sina qua non* precondition for accession negotiations. The definition of “European State” is malleable on Europe’s Eastern periphery, while Europe’s Southern boundary is fixed by geography. As Wæver argues: “Towards the East, the EU has wisely refrained from defining ‘Europe’ and thus says ‘yes but’ and ‘not yet’ to Eastern applicants – never ‘no’. Towards the South, the Mediterranean is taken as the border of Europe, and North African applicants have received or will receive a ‘no’ (or a ‘no but’ leading to other programmes)” (2000: 264).

Eastern enlargement is heralded as the great success of EU foreign policy (Hadfield 2007; Bindi & Angelescu 2012; Grabbe 2006, 2014; Lavenex & Schimmelfennig 2009). The European Community’s early expansion into post-authoritarian states in the South proved to be a reliable mechanism for “locking its neighbours into stable and democratic transitions” (Haukkala 2011: 47).

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Enlargements not only radically altered Europe’s geopolitics, but extended supranational oversight over a host of essential aspects of domestic policy. The formal Europeanization of border, mobility, and asylum regimes became a binding prerequisite for membership given that Amsterdam had rolled the Schengen *acquis* into the broader *acquis communautaire* (the entire corpus of EU law). These dynamics are taken up in detail in the following chapter.

Pre-accession Stabilization and Association Agreements with Western Balkan states place a strong emphasis on harmonizing border controls with EU directives and signing readmission agreements with Member States as prerequisites for candidacy. The European External Action Service has permanent representatives in candidate states, whose central purpose is to ensure compliance through yearly Progress Reports through the Commission. The process offers the promise of pre-accession visa liberalization in return for cooperation on migration and border control issues. Addressing endemic corruption and protection of minorities are at the top of the official agenda, though protracted accession negotiations in the Western Balkans and democratic backsliding throughout Western Balkan accession states and CEE enlargement states leave room for significant doubt around Europe’s long-term transformative influence to the East.

**4.5.2 North / South Impasses & Third Country Readmission Agreements**

The ENP essentially attempted to duplicate the successes of accession Europeanization in non-candidate states. Lisbon enshrined the normative drivers of relations with non-candidate third countries while at the same time laying out the aspirations of the approach: “the Union shall develop a special relationship with neighbouring countries, aiming to establish an area of prosperity and good neighbourliness, founded on the values of the Union and characterized by close and peaceful relations based on cooperation.” It thus directly stipulated that democracy and rights promotion should be at the core of EU foreign policy (both in content and desired outcomes) given that they reflect the internal make-up of the EU and its experience with enlargement (Balfour 2012: 4). However, more general differentials in interest and incentives significantly truncate the scope of interactions, leaving the EU and its Member States to focus on exclusively restrictive compensatory measures.

Fundamentally different interests between Europe and third countries are characteristic of broader difficulties in North/South cooperation on migration (Betts 2011; Hansen et. al. 2011; Koslowski
Unlike transboundary flows of goods, services, and capital, there are virtually no binding international regimes on human mobility. The 1990 Convention on Rights of Migrant Workers and their Families divided the UNGA along North/South lines; it only reached its ratification threshold of 20 states in 1993, and as of 2016 had only 48 signatories – the majority of which are sending states. The North/South impasses were apparent at the somewhat notorious 1994 Cairo Conference and the early work of the Global Commission on International Migrations, which were dominated by the fundamental difference that Southern countries were interested in facilitating migration and ensuring remittances and visas, whereas the North was interested in controlling and managing migration and focusing on high-skilled workers. The Global Commission on International Migration and UNGA High-Level Dialogue on International Migration and Development all remain non-binding fora in order to ensure the participation of Northern states (Hansen 2011).

North/South interstate cooperation on the flow of people, when it does occur, tends to eschew binding oversight and institutionalization. The EU’s current phase of extraterritorial measures focuses on compelling sending and transit states through development aid, preferential trade, and labour liberalization. As described above, the 1999 Tampere Conference, convened as a special JHA Summit during the Kosovo refugee crisis, was a watershed moment for Europe’s extraterritorial migration policies. Tampere was the first time member state asylum, border, and migration policies were explicitly bundled with external policies, particularly relations with transit states and committed the EU to a common asylum regime (Haddad 2008: 191). Its conclusion reiterated the need to develop a comprehensive approach to asylum and border management, but more explicitly concluding agreements on migration and border management, readmission, and information campaigns to deter migrants in sending and transit states. Subsequent EC summits in Laeken, Seville, and Thessaloniki presented asylum and irregular migration control as top political priority for the EU.

Whereas candidate states sign a range of mobility agreements as a prerequisite for deeper ties and opening accession negotiations, readmission agreements are a time-consuming and intensely political process. Third countries agree to accept the burden of repatriating failed asylum seekers and irregular migrants in return for financial incentives, some preferential access to labour markets, and the

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60 The conclusion of the summit reads: “The European Union needs a comprehensive approach to migration addressing political, human rights and development issues in countries and regions of origin and transit. This requires combating poverty, improving living conditions and job opportunities, preventing conflicts and consolidating democratic states and ensuring respect for human rights […] To that end, the Union as well as Member States are invited to contribute […] to a greater coherence of internal and external policies of the Union.”
promise to negotiate further visa liberalization agreements. However, reception and protection standards are more often than not limited to official directives of changes to domestic legislation, with almost non-existent oversight or compliance mechanisms. The lack of oversight is far from puzzling when understood in light of domestic adoption costs.

### 4.6 Conclusions

European irregular migration governance is a bureaucratically securitized policy sphere. Post-Cold War domestic politics were uploaded to the supranational sphere and Justice and Home Affairs policies came to dominate the emerging irregular migration policy field. The mainstreaming of irregular migration issues into relations with third countries thus also follows a securitized logic. However, this does not imply uniform influence over transit states. As my subsequent comparative case illustrates, differing incentive structures mean fundamentally divergent compliance, with significant effects on irregular migration systems and indicators for benign and malignant Europeanization.

The incentive of EU membership is a necessary condition not only for benign Europeanization, but for comprehensive compliance around mobility and border controls. Just as global South states cannot compel Northern states to sign binding agreements on the rights of migrants, Europe and its Member States rarely exercise sufficient leverage to change the domestic structures of sending and transit states. Europe’s external migration relations have been characterized by false starts and insufficient funding and political clout for more “global” approaches to migration governance. Readmission agreements thus often represent a *de facto* end goal of Europe’s externalized migration governance.

The lessons presented in this chapter offer an important framing for the subsequent empirical case studies around malignant Europeanization. Two findings deserve foreshadowing. First, malignant Europeanization is not limited to third countries. Post-Soviet Central and Eastern European states were important sending and transit states in the immediate post-Cold War period. While the accession process meant broad and profound changes to domestic institutions, they nonetheless were driven by securitized, control-based compensatory measures. Open borders and free mobility meant accepting the role of protecting Schengen’s external borders. The negative security impacts of European regional integration would thus be borne by accession states and their newly extra-
European neighbours. Compliance was predicated on the fact that the dividends of membership were outweighed domestic costs. It is likely the case that the 2004 and 2007 enlargements were historically unique and contingent events which cannot be duplicated.

Second, the CEE enlargements and the development of JHA-centric migration governance occurred simultaneously with growing concern over irregular migration into Southern Europe, particularly from the Western Mediterranean irregular migration system. While the EU and its Member States were ostensibly driven by the goal of duplicating the compensatory measures of enlargement, they lacked the incentives to compel substantive domestic governance or rule of law changes in transit states. Early attempts at externalized migration controls were seen as attempts to dictate European interests on third countries, and faced significant domestic backlash. Domestic political structures matter a great deal. Relatively weak, poor, and authoritarian states experienced far more significant and drastic effects of malignant Europeanization, which would not be balanced by countervailing forces of benign Europeanization.
Chapter 5  

Malignant Europeanization in Comparative Perspective: CEE Enlargement vs. Western Mediterranean Third Countries

5.1 Introduction

This chapter offers a comparative analysis of malignant Europeanization in Central and Eastern Europe and the Western Mediterranean irregular migration systems. The cases studies proceed in rather broad strokes since each includes several states and covers a period of at least fifteen years. My central claim is that observed insecurity and changes in practices and norms in both cases are the result of Schengen’s compensatory measures.

I present the cases comparatively to offer preliminary support for my hypotheses around membership conditionality, domestic politics, and regime type as determinants of different types and severities of malignant Europeanization. Most importantly, I illustrate the causal chain between Schengen’s compensatory measures, changes in irregular migration systems, and Malignant Europeanization. The comparative analysis is important for my subsequent cases given that transit states in the Central Mediterranean system are non-candidate third countries, while those in the Western Balkan system are either Member or candidate states, each entailing different incentive structures, regime types, and relationships with Schengen’s compensatory measures. While the chapter shows that the EU’s compensatory measures have causal influence in both cases, their effects are mediated by these important intervening variables.

To foreground my findings: compliance with Schengen’s compensatory measures in the CEE system was the result of the incentive of EU membership, and attendant accession programming to transpose the EU acquis and build the regions border control, asylum systems, visa lists, and readmission agreements with third countries. Accession meant that the region would become part of Schengen’s compensatory regime and control the EU’s external borders. In the Western Mediterranean system, where membership incentives were absent and mobility agreements, particularly visa facilitation were not offered until after the Arab Spring, compliance was limited to hard border controls and financial incentives to enact hard controls on transit migration. While states in the system reformed domestic laws to criminalize irregular migration, compliance was formal.
The Western Mediterranean and CEE irregular migration systems are alike on a number of important counts so as to validate them as cases of a particular phenomenon (George & Bennett 2005:17). Both share Europe as a common destination and were important transit regions in the period when migration and asylum concerns came to the fore of domestic and supranational politics in Europe. Both were early focal areas for concerns over irregular migration and testing grounds for Europe’s external Justice and Home Affairs policies. In terms of domestic politics, states in both regions worried that compliance would effectively make them a buffer zone for the Schengen area and a holding area for migrants. Over the period of interaction both expanded from being exclusively sending and transit regions to destination regions, partly because of economic growth relative to neighbours, but also given compliance with EU leverage.

The CEE states and Western Mediterranean cases also vary along important dynamics. Most obviously, they are as geographically distant as possible in relation to Europe’s peripheries, with starkly different historical experiences and migration relations with Europe. To the East, states in the Soviet sphere were primarily concerned with keeping people in; the slow trickle of East-West migration was framed as a political victory in Europe since a refugee was generally synonymous with a defector (Favell & Hansen 2002: 584). The end of the Cold War and eventual accession was framed around a common narrative of “returning to Europe.” In the CEE context, Schengen compliance was a non-negotiable prerequisite for accession, and EU mobility and border controls were transferred directly into domestic policy and law.

The Maghreb, on the other hand, is seen as the hard edge of Europe, and European colonialism is a major influence on region’s modern historical experience. Decolonization and transnational labour markets meant significant migration from the Maghreb and West Africa to Europe (Castles & Miller 2009), and remittances played a crucial economic role for sending states (Bade 2003; de Haas 2007). European demographics were significantly and permanently changed by post-colonial immigration through family reunification, guest worker programs, and periodic regularizations (Hansen 2003). Schengen’s compensatory measures were at first unilateral and focused almost exclusively on containment. In contrast to CEE states, the absence of eventual membership incentives meant policy diffusion was ad hoc and influence was dependent on wider political contexts.

61 Though of course, Central and Eastern Europe’s cartography and society are the result of centuries as a frontier between empires.
The end of the Cold War was a major catalyst in Europe’s relations with both regions. Migration concerns drove the geopolitics of enlargement to the East and tighter borders and externalized controls to the South. Europe engaged with countries in the East through the incentive of membership, and to the states of the South with an ever-developing series of bilateral arrangements and multilateral processes. The cases thus also differ as much as possible in terms of conditionality and incentive structures for European policy diffusion and influence. Migration systems differ in terms of places of origin, smuggling networks, government types, and state strength.

The literature on policy failures and the weak impacts of the EU’s external relations glosses over the structural connection between the development of the European project and malignant Europeanization in transit states. While in the CEE system there is evidence of Malignant Europeanization along most of my variables, its severity was tempered by benign Europeanization, particularly when measured against the governance vacuum of the immediate post Cold-War period. However Schengen’s compensatory measures resulted in changes in irregular migration systems which led to more security sector corruption and international norm degeneration by containing asylum seekers in states with far lower protection and processing capacities. In the Western Mediterranean, domestic politics, the absence of rights and protection standards, and prevalence of violence and dangerous routes resulted in more severe Malignant Europeanization along most variables, particularly migrant insecurity, security service corruption, and norm degeneration.

Observed Malignant Europeanization is not merely the result of short-sighted policies, but fundamentally connected to the development of Schengen’s compensatory measures. To repeat Boswell’s prediction: “Europe’s policy choices will not only affect the protection status of refugees and migrants, but on the stability in sending and transit countries, and on EU relations with third countries” (2003: 620). Compensatory measures in the Western Mediterranean system resulted in significant malignant Europeanization. In accession states, it is tempered by domestic political reforms.

5.2 CEE States: Malignant Europeanization in Europe’s Foreign Policy Success Story

European enlargement into the post-Communist east is generally portrayed as the EU’s great foreign-policy success (Favell & Hansen 2002; Grabbe 2006). Without a doubt, enlargement was a crucial element in ensuring a mostly stable, historically momentous economic and sociopolitical transition.
Ties to the West, particularly the presence of EU conditionality (but also civil society, intellectual, business engagement) proved crucial in developing the “core elements of democracy” after the Cold War and preventing “serious authoritarian backsliding” after accession (Levitsky & Way 2010: 89-91). European influence was largely welcome from all strata of society, and helped by the fact that democratization and eventually accession were part and parcel of a process of “going along with the tide of history” (Grabbe 2014: 44). Indeed, while it was widely understood that some political and societal costs would be disproportionately distributed, accession provided obvious net political and strategic gains, while the option of being left behind was potentially catastrophic (Moravcsik & Vachudova 2003). As Levitsky and Way argue, “The benefits (real and perceived) of ties to Europe powerfully shaped the incentives of domestic actors. Permanent and extensive ties to the wealthy European core constituted a ‘big prize’ that resonated broadly among both the Eastern European elite and the general public” (2010: 89). There was a widespread perception among elite and general public opinion of accession as a “return to Europe.”

Understood in this light, the emphasis on malignant Europeanization in CEE states could be construed as an exercise in searching for the dark lining to a silver cloud. But enlargement was by no means the product of Western European altruism. Indeed, enlargement’s supply side was driven by geopolitical and strategic concerns, including ensuring stable market transition, forestalling irredentism and territorial disputes, and, most importantly for this study, as a grand form of migration management.

Europe’s image of the post-Soviet East was dominated by the fear of “a massive movement of former Warsaw Pact countries’ citizens westwards – because the brute economic differentials, the bumpy transition from communism, and the expressed intentions of East Europeans, seemed to suggest this” (Favell & Hansen 2002: 588). While during the Cold War every refugee was seen as a victory for the West, and media of all persuasions celebrated East Germans “taking the future into their own hands,” this largely positive portrayal was soon followed by the breakup of Yugoslavia and fears of uncontrolled irregular migration through a weak and corrupt East. As described in Chapters 2 and 3, domestic political concerns were soon uploaded to the supranational sphere, and then exported to Schengen’s compensatory measures around Europe’s peripheries. As this case study bears out, the accession process was not without externalities.
The case study serves as a crucial foreground for the subsequent case study in Chapter 6 on the Western Balkan system. First, there is some overlap between the two case studies since both include Hungary and Bulgaria. The remaining states in the case (Croatia, Greece, Macedonia, and Serbia) are either members or in some stage of candidacy or accession. EU / third country interactions therefore follow similar dynamics to the enlargement period. Second, the European response to the 2015 migration crisis was discouragingly similar to the crises and perceived crisis of the post-Cold War period in terms of European burden-sharing (or lack thereof), domestic political backlash, and the further securitization of the policy sphere. Third, after accession the majority of scholarly attention turned to testing the depth and breadth of benign Europeanization. The scholarly trajectory is important to my general argument given that the historical experience in the CEE states provided both the methodology and historical exemplar for the Europeanization literature. Illustrating negative security outcomes in the enlargement experience is akin to a “critical case” for the analytic validity of Malignant Europeanization variables. Finally, reactions to the 2015 migration crisis led to democratic backsliding, challenges to the rule of law, weakening minority protections, and systematic defections from the solidarity mechanisms underpinning Schengen’s compensatory measures – key metrics for benign Europeanization.

5.2.1 Methods and Data

Data for the case study is taken entirely from secondary sources. Quantitative analysis of irregular migration flows for the period is an exercise in counting those who largely wish to remain clandestine in a period where state capacities to collect data and monitor borders was weak or altogether absent. As described in Chapter 1, estimates on the scope of irregular migration flows are largely extrapolated from border apprehensions, asylum claims, and absconding from asylum processing. Most of the states under discussion did not have functioning migration regimes until almost a decade after the end of the Cold War. The lack migration legislation meant blurry legal definitions and ad hoc data accumulation and retention (Laczko & Thompson 2000). More fundamentally, CEE states did not have functioning border controls or migration-related legislation during the Cold War period (Salt & Hogarth 2000). Those that did exist were largely focused on preventing citizens from leaving rather than guarding borders against entry. Finally, CEE states were largely outside of the international refugee regime and so simply did not collect asylum statistics.
The most reliable yearly data on border apprehensions comes from the International Centre for Migration & Policy Development (ICMPD) *Yearbook on Illegal Migration and Trafficking in Central and Eastern Europe* from 1997 to 2010. Yearbooks are based on qualitative and quantitative surveys with state-level migration and border authorities throughout the CEE states. The major drawback is that statistics are self-reported, prone to corruption and politicization, and come from transitional states with limited institutional capacity. Frontex’s annual Risk Analysis reports on Eastern European borders provide information from 2011 to 2015. Eurostat data on third country nationals refused entry at external borders, found to be illegally present, ordered to leave, and returned either to their country of citizenship or a third country is only available from 2008 onward. Pre-2008 data was to be accumulated by the European Commission (a competence assumed by Frontex in 2009), but attendant governance deficits mean those statistics are unreliable and largely inaccessible.

Data on irregular migration flows, as measured by border apprehensions, asylum applications, or secondary absconding from asylum procedures became somewhat more reliable over time as accession states adopted technical requirements of the Schengen border code. Finally, scholarship is still developing techniques for addressing proper methods for comparing multi-source data on irregular flows (Kraler & Reichel 2011; Collyer & de Haas 2012). Research is available from 2005 onward when scholars, IGOs, think tanks began to look seriously at methodology for analysis and compiling irregular migration data, but it is necessarily post-hoc.

### 5.2.2 Irregular Migration System Dynamics & EU / Accession State Interactions

#### 5.2.2.1 The Development of the CEE Irregular Migration System

Contemporary East-West movement through Central and Eastern Europe is properly understood in the broader historical context of large-scale displacement from war or state-sponsored violence, territorial revisionism, and the ebb and flow of imperial frontiers. The history of mobility and displacement are part of the region’s role as a strategic buffer and Central and Eastern European historical and political narratives are embedded in conquest and partition. The Slavic “kraj” translates

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63 Multiple and sustained attempts to obtain data from the Council, Commission, Frontex, and scholars was largely fruitless. Respondents from inside the EU bureaucracy were frank about the poor quality and reliability of data and cautioned against use.
as “land” or “border”. “Ukraine” is derived from “Okraina” or “Borderland”. From the 15th to 18th centuries parts of the Balkans served as the “Vojna Krajina” or “Military Frontier” between West and East. More recently, the Visegrád countries of Central Europe (Czech Republic, Hungary, Poland, and Slovakia) served as a military buffer between the Soviet East and European West (Wallace 2001). Contemporary domestic political movements, geopolitical competition, and territorial revisionism in the region trade on this history.

Movement from and through Central and Eastern Europe was consistent throughout the post WWII era. An estimated 14 million people departed from CEE states westward from 1950-1991, many as defectors or refugees. 2.5 million people left the ex-Warsaw pact countries between 1989 and 1992, including 400-700 thousand from the Visegrád countries, which would become the most important transit countries among accession states (Wallace & Stola 2001; Bicanová et al. 2008; Nygård & Stracher 2001).

The end of the Cold War, eventual accession, and shifting migration and border dynamics thus signaled both continuity and rather drastic change for the region. While Member States and the Brussels bureaucracy were at first primarily concerned with the massive socioeconomic differentials in the post-Soviet space (Phuong 2005), European public perception was dominated by the spectre of mass, permanent migration (Hansen 2003). The (unfortunately) still-prominent figure of the Polish plumber usurping the hard-working Brit was a mainstay. And while alarmism around labour market effects and overall flows were ultimately unfounded, the general unease was rooted in legitimate experiences with East-West flows and drastic geopolitical changes in the regions (Barrell et al. 2010; Glorius et al. 2013).

Late reforms in the Soviet Union meant an expanding regional migration system and the potential to work in Europe. The 1989 watershed meant large-scale mobility, but also changed the dynamics of migration, membership, and territory given the emergence of 8000km of new borders. Central and Eastern Europe transformed into a “new migration space” as the removal of strict (and often violent) exit controls in Warsaw Pact states disappeared overnight with nothing to replace them (Wallace & Stola 2001: 16). Economic growth throughout the 2000s meant increases in overall cross-border traffic given expanding regional travel and trade. Small-scale circular migration systems developed around border regions, for example between Ukraine and Poland, and Romania and Hungary
Widening commodity price differences between candidate states and those outside the enlargement sphere meant increases in petty trade, smuggling, and corruption. The rise in irregular migration, absence of border controls, and endemic corruption were often epiphenomenal to weak governance and state capacity at the end of the Cold War (Ivakhnyuk 2014). The Visegrád countries proved the most important East-West transit route, particularly Hungary and Poland. 40-60,000 irregular migrants per year transited to Western Europe from 1989 to the mid-1990s (Jandl 2007). Anecdotal evidence from a newly-united Germany showed a rather immediate and drastic uptick in irregular migration through Poland, with increasing rates of human trafficking. It is unsurprising that Roma minorities, given persecution and economic and political disenfranchisement, were the most numerous throughout the 1990s, followed by different waves from the disintegrating Yugoslavia, and further afield from the Middle East, South Asia, and the former USSR (Stola 2001).

Over the same period, CEE states shifted from net emigration to immigration countries, mirroring earlier trends in Southern Europe. By the end of the 1990s, immigrant communities from East and South Asia, the Middle East, and North and East Africa began to establish themselves. Chain migration dynamics, increasing border controls, attendant difficulty of onward movement into Europe, and open import markets meant the establishment of landed immigrant communities rather than simply transit migration. Domestic politics followed a familiar postwar European trajectory. Immigration of non-European outsiders was politicized and securitized (never mind the Polish plumber), sowing the seeds for a resurgent nativism. The dark irony is that rightist parties would come to wed (and foster) nativist, anti-immigrant popular sentiment with anti-Brussels political platforms.

5.2.2.2 EU Priorities and Programming

Enlargement meant pushing Schengen borders eastward. Increased border control capacity, readmission agreements, and changes in accession state domestic policies to manage asylum and irregular migration were at the fore of pre-accession conditionality. The disintegration of Yugoslavia reinforced European fears around the impacts of weak governance, irredentism, and ethnic conflict (Lavenex 2001; Mungiu-Pippidi 2002). As with North Africa, EU policy largely focused on addressing attendant transit migration and mass forced-migration events rather than on understanding
the East as a complex destination, sending, and transit region (Düvell 2012). Policy was squarely focused on control and containment – obvious outcomes of the securitized policy frame described in the previous two chapters. Scholarly, governmental, and IGO reports began to discuss the “new phenomenon” of human smuggling into Europe (Vollmer 2011). In 2000 Europol published its first report focusing on transnational crime and illegal migration from the East – setting the tone for a trend of supranational alarmism. The concepts of irregular migration and transit states were taken up with gusto by policymakers and scholars alike (Düvell et al. 2014).

Without a doubt, weak to non-existent governance structures in the region offered open ground for criminality and corruption. The scale and professionalization of smuggling expanded rapidly in response to market demand and drastic socioeconomic differentials between sending and destination regions. The Brussels-driven focus on controlling irregular migration came to define policy development as domestic political concerns in the EU-15 were uploaded to the supranational sphere. EU border and mobility policies illustrate the shift from Cold War balance of power strategy to JHA-type security concerns and risk management – a functional and conceptual change immediately exported to CEE states (Grabbe 2000; Mitsilegas 2002).

Accession compliance meant changes to the very conception of borders in Europe’s East. During the Cold War, for example, border control between Poland and the other Soviet bloc states was largely symbolic with a virtually open frontier into the 1990s. Pre-existing migration, trade, and smuggling networks across Poland’s long land borders persisted after the collapse of the USSR, and Poland did not develop legislation or a functional border guard until 1998 (Okólski 2000: 247). In a 2000 IOM-sponsored survey on smuggling and trafficking, most governmental respondents in Poland and Hungary did not share a common understanding of irregular migration; police dealing with organized crime did not have the issue on their radar; and the notion of smuggling and trafficking was “still rather strange” to most governmental respondents other than the newly-minted (and EU-trained) border police (ibid: 249). Irregular migration was simply not an important policy area – a rather stark contrast to its dominant status in the West European political imagination and eventual political importance among CEE states.

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64 Europol consistently presents figures around the corruption and human smuggling with no available data. Repeated correspondence with the agency has yielded no interviews, discussion of methodology, or explanation of data. For example see Europol and Interpol’s “comprehensive” review of migrant smuggling networks to Europe: https://www.europol.europa.eu/content/europol-and-interpol-issue-comprehensive-review-migrant-smuggling-networks
Facilitating CEE transition became Europe’s dominant foreign policy undertaking. Established immediately in 1989, PHARE (Poland and Hungary Assistance for the Restructuring of the Economy), was the main EC funding and programming mechanism for influencing transition. It eventually expanded to 14 countries in the region. Initially designed to foster the development of market economies, from 1993 it included large-scale infrastructure projects and funding for civil society and democracy promotion. PHARE also focused explicitly on border infrastructure and ameliorating economic disparities in border regions. In 1998 programming was reoriented to focus on JHA issues. The Tampere conference included a conclusion that bilateral Commission / accession state relationships should be strengthened by cooperation and technical assistance from individual Member States to strengthen border and migration control capacities. Member State assistance and “twinning” processes between Member and accession states became important avenues for policy, governance, and legislative diffusion. Germany made direct funding transfers of hundreds of millions of Deutschmarks to the region, particularly to Poland. PHARE financing for border control equipment in Poland in the years immediately preceding accession accounted for the highest ever expenditures for individual programmes (Deitrich 2003).

From 1991 to 1996 the Commission replaced bilateral cooperation agreements with a series of more comprehensive and progressive association agreements, beginning with the Visegrád countries (Barros 2001). The Commission started actively monitoring CEE state compliance as early as 1997, a year before official negotiations (Schimmelfenning & Sedelmeier 2007). The EU opened accession negotiations with Czech Republic, Estonia, Hungary, Poland, and Slovenia in 1998, and Bulgaria, Latvia, Lithuania, Romania, Malta, and Cyprus in 2000. The migration and border acquis moved to the centre of accession negotiations given that the CEE states would not only be responsible for Europe’s external borders, but the new frontier would delineate the scope of European foreign policy. At a higher level of analysis, Europe’s new Eastern border would come to define the Commission’s capacities between direct oversight and policy transfer through accession Europeanization and external relations through the European Neighbourhood Policy (ENP).

While PHARE programming and Commission oversight meant directly observable policy changes, governance and norm diffusion began significantly earlier than official accession negotiations. As early as 1991 the Budapest Process, which first took the form of Interior Ministers’ meeting between European and CEE states, issued a communication about the prospect of losing control of the potential migration pressure from the East and the need for more direct cooperation (Lavenex 1999).
Subsequent meetings focused on tougher penalties for trafficking and smuggling and updating border controls. Officially established in 1993 as a dialogue space for EC, CEE, and CIS states, it served as a space for an EU-driven agenda on pre-accession strategies to control Westward transit migration. Facilitated by the non-governmental ICMPD, it came to include almost 50 governments and a dozen IOs, and served as a forum for governance transfer to CEE states during their transitional period between candidacy and accession. The early effects of the Budapest Process as a non-binding regional consultative process are difficult to measure given the informal nature of technical cooperation and the fact that official reports were not published until 2003, over a decade after its inception (Geiger 2008). Despite these gaps we do know that it emphasized the role of bilateral readmission and safe third country agreements in return for financial and technical assistance.

The Budapest Process also served as a forum for developing functional cooperation on return and readmission in exchange for political support in the accession process. The main observable output of the Budapest Process (and RCPs in general) is policy change along European lines, particularly as regards the development of domestic capacity around irregular migration, trafficking, and asylum. In return, these new transit states received functional and political assistance in securing labour mobility rights for their nationals. According to Hansen:

Many European countries wanted to implement a return policy but could not do so without country of origin support; similarly, the countries of origin wished to secure greater access to European labour markets but could not without the help of destination countries. Through the process origin countries signed return agreements, while the destination countries worked with them to ensure eventual EU accession (2010: 23).

Though readmission agreements were first developed in the 1950s and 1960s between West European states, enlargement gave rise to a second generation focused on transit and origin states (Bouteillet-Paquet 2003). CEE accession states were their testing ground. The Council and Commission developed a new “two-pronged” approach to agreements after the Edinburgh Declaration by creating a “common specimen” or harmonized bilateral readmission agreement to be used by Member States with third countries, and the inclusion of Third Country National (TCN) readmission clauses in bilateral relations (Roig & Huddleston 2007: 367). Along with tighter border controls, CEE states thus embraced their newfound role as transit states and assumed the responsibility (and liability) of accepting third country nationals who had transited through their territory. The 2015 migration crises would turn the relationship on its head as CEE states leveraged their role to harness anti-EU domestic sentiment and challenge intra-EU bargaining dynamics around solidarity and burden-sharing.
Central and Eastern Europe became a buffer for asylum seekers and irregular migrants through domestic policy development and border controls, readmission agreements, safe third country designations, and eventually Dublin Regulations. While safe third country and country of origin designations are generally unilateral, they fundamentally rely on functioning, bilateral readmission agreements with transit and sending states (Lavenex 1999). Bilateral readmission agreements became non-negotiable conditions for visa waivers for all CEE states. The 1999 Amsterdam Treaty gave the Commission competence to negotiate TCN agreements on behalf of Member States. Compliance on mobility regimes presented clear criteria by which to speed up accession. The Europeanization of asylum procedures in CEE states thus reinforced a dynamic where irregular migration would be a national rather than a community problem given that erstwhile transit states would now have to process asylum seekers and take them back under Dublin regulations in the event of irregular secondary movement (van Selm 2007). Brussels thus came to exercise significant oversight over candidates’ migration policies.

Finally, visa-free travel for CEE nationals in the pre-accession and pre-Schengen period was dependent on conforming to EU visa lists (Lavenex & Uçarer 2004). The least capable states faced the most stringent requirements, drastic governance reforms, and changes in their migration and mobility relations with neighbouring states (Baldwin-Edwards 2008). In 2004 Bulgaria and Romania signed 30 separate bilateral readmission agreements with neighbouring and sending states given compliance with the EU’s so-called black-list visa countries in their immediate neighbourhood. Both signed readmission agreements with the Commission not only as an accession condition, but to remove themselves from the black-list (Jileva 2002). Both states showed a high degree of formal compliance before any firm dates or commitments over admittance to Schengen (of which they are still not part). In fact, the text of the Schengen acquis was not finalized and published until 1999, five years after most CEE states had begun to comply with European border codes, readmission agreements, and third country visa lists.

5.2.2.3 Compliance and Europeanization

CEE states began with a high degree of institutional misfit across most governance, economic, and human rights indicators. Indeed, “The transition from communism [...] meant not only building market economies from the ground up but also creating a modern regulatory state capable of
implementing the EU *acquis* [...] This itself imposes a heavy burden in the sense that the EU compels new applicants to transpose and implement standards of internal democracy, state administrations, and detailed regulatory protection that the EU-15 have had a half a century to accommodate” (Moravcsik & Vachudova 2003: 46). Accession protocols included binding prerequisites for border control, asylum regulation, and readmission.

Accession negotiations occurred in tandem with the development of the EU’s nascent common border and migration regime. The absence of laws, institutions, and even norms of border control meant the potential to directly upload European preferences as they developed rather than to reform old systems (Phuong 2005). The power and governance differentials are evident in the fact that the CEE states, though soon to be responsible for Schengen’s external borders, had no stake in policy development. Rather, they faced binding compliance criteria while the *acquis* was still in its development phase, and “the terms for immigration policies were largely set by their (Western) neighbours” (Lavenex & Uçarer 2004: 431). Unlike EU-15 states, the CEE accession states would be required to pass through a probationary period wherein EU citizenship, free trade, and access to decision-making fora would precede mobility rights.

The fact that accession states would not enjoy immediate visa-free travel undermined the notion that the four freedoms of European citizenship were indivisible (Grabbe 2007: 116). Member States were wary of making any firm commitments as to a timeline for Schengen membership, and the JHA Chapters were one of the few aspects of the *acquis* where they might stall accession. According to Grabbe:

Member states really might prevent a country from joining if it could not control movement of persons and goods across its borders with non-EU countries. Not only were the fifteen existing member states likely to deny new members full access to the Schengen zone, but the candidates could be denied membership completely if they could not guard their external borders effectively (2007: 117).

Exporting Schengen’s compensatory measures were thus as crucial a prerequisite as the governance and rights-focused Copenhagen criteria.

While European politicians generally framed enlargement as a prophylactic against the hard security concerns of irredentism, authoritarianism, and forced migration, technical requirements and the day-to-day work of accession were largely depoliticized (Higashino 2004; O’Brennan 2006). Accession criteria scarcely mentioned security, though the securitized JHA logic underpinned the functional
aspects of enlargement and border cooperation (Zielonka 2002). One of the “successes” for European policymakers was thus transforming the political project of European expansion and Eastern stabilization into a technical project of exporting 80,000 pages of _acquis_ (Jileva 2002). This meant export of JHA concerns at a time of “hyperactive” development in the field (Grabbe 2005: 126). The “discovery” of irregular migration and the idea of transit states emerged at a time when securitized and externalized migration controls were coming to the fore of the policy field. The Amsterdam Treaty meant that the Schengen _acquis_ became part of overall EU law, and CEE states agreed to its technical and legal requirements as a legally-binding prerequisite for accession – an understandable demand on the European side of the equation given that these new states would, in short order, be responsible for Schengen’s external borders.

The period between the 2004 enlargement and the opening of internal borders in 2007 was crucial in terms of developing capacities and programming. Each CEE state was required to develop a domestic-level _Schengen Action Plan_ regarding legislation and technical issues to meet the Schengen _acquis_, and were given a three year period during which ‘safeguard clauses’ could be invoked by the Council. Post-2007, there were significant increases in joint patrols and Frontex operations at external borders, as well as the full implementation of digital information sharing schemes underpinning the Dublin Regulations. Thus the period between accession and free mobility meant closely-monitored compliance on all manner of JHA priorities, particularly the “fight” against smuggling, trafficking, and organized crime.

5.2.2.4 Effects of Compensatory Measures on Irregular Migration Systems

The purpose of the present section is, for the first time in the study, to draw out the connections between Schengen’s compensatory measures and changes in irregular migration systems – in particular the scope, pace, and direction of migration flows. This is a crucial step in my argument given that changes in irregular migration system are my hypothesized causal mechanism between Schengen and Malignant Europeanization in irregular migration system transit states. The CEE irregular migration system includes the Czech Republic, Bulgaria, Hungary, Poland, Slovakia, Slovenia, and Romania.

Available data for the period from perfect, though it offers a satisfactory overview of general changes. As described above, statistics on irregular migration flows are generally extrapolated from
border apprehension figures. In the case of Hungary, for example, a 2000 survey of border guards estimated their effectiveness to be only 10 percent (Salt & Hogarth 2000: 36), while border guards in Poland estimated theirs at ranges from 20 to 90 percent (Okólski 2000). Additionally, data from the period is comprised of self-reported statistics from states with weak institutional capacity. Data can thus be idiosyncratic, or, in the worst case, likely comprised of fabricated statistics as a mode of reflecting capacity to control Europe’s external borders, either as an overestimation or as an exemplar of the need for access to direct funding instruments. As will become apparent in the Western Balkans and Central Mediterranean cases, tying irregular migration pressures to EU programme funding and political leverage persists in contemporary cases. Respondents from the Council, Commission, and Frontex repeatedly discussed incidents of third countries exaggerating migration pressures and presenting Brussels with shopping lists of multi-use surveillance equipment and requests for infrastructure funding. Likewise, transit states often selectively apply asylum and border controls in order to skew statistics and gain international leverage. In the case of the 2015 migration crisis, for example, Hungary insisted on compliance with asylum registration as a mode of illustrating their outsized role as a destination country, even though the vast majority of first time asylum applicants to Hungary appearing in Eurostat data quickly moved on.

Statistics became more reliable as state capacity increased through the accession process. General changes in apprehension statistics, when examined alongside asylum applications and understood within the context of accession, offer a relatively reliable picture of changes in regional migration systems. Across the Visegrád countries, there were sharp increases in border apprehensions and irregular migration from 1989 to 1998 (Kraler & Reichel 2011). Overall regional apprehensions trended downward thereafter, when European intervention on border and migration policies began in earnest. Poland, Hungary, and the Czech Republic experienced the deepest European interventions given their role as transit states. Romania and Bulgaria received a good deal of attention given fears about an uncontrolled westward exodus. Asylum restrictions in Europe after the breakup of Yugoslavia, particularly the introduction of Temporary Protection Status and readmission agreements meant that CEE states would become de facto and de jure migration buffer zones (Wallace 2001).
“Figure 5.1” describes a regional downward trend in irregular migration through the accession process. From 2000 to 2004 Poland, Hungary, and Slovakia had roughly equal rates of irregular migration, with Hungary becoming the most important transit state into Europe given its multiple borders with third countries and Schengen states. Total apprehensions in the region halved from 42,800 in 2003 to 20,700 in 2007, with the majority of the 178,000 over the period apprehended in Hungary. Total apprehensions dropped relatively consistently from 99,913 in 2000 to a low of 12,497 in 2010. Applying standard multipliers to border apprehension figures means a drop from around a quarter million people transiting through the region per year to under 25,000 – a 90% decrease over a decade.

One obvious explanation is that the majority of those capable of doing so transited through the region immediately after the Cold War, and are thus not represented in apprehension statistics. Stated otherwise, the latent migration pressure was released before the lid was replaced. The overall decline is thus partly a reflection of weak governance and border control capacity during the period of highest mobility, with state capacity increasing as CEE states became transit and destination rather than state of origin. Another explanation is that smuggling networks from Asia and the Middle East shifted routes, primarily to the Eastern Mediterranean and through Greece, rather than moving overland through the CEE states.
While the overall irregular migration flows decreased, smuggling strategies became more effective over time and switched to new routes within the region as individual border agencies played a cat and mouse game with smugglers. For example, when Hungary’s apprehensions dropped from 16,637 in 2001, 15,976 in 2002, and 13,533 in 2003 there was a commensurate jump in Polish border apprehensions from 4,269 in 2002 to 5,063 in 2003 (Futo et al. 2005). IOM and OECD reports from the period claim that strengthened border controls resulted immediately in shifting routes (Laczko & Thompson 2000; OECD 2001). While these statistics reflect small numbers in terms of overall irregular migration to the EU, they nonetheless points to rapid shifts in irregular migration systems as a response to Schengen’s compensatory measures (ICMPD 2006: 17).

In both Hungary and Poland, the period from 1991 to 1998 saw an overall decrease in border apprehensions, implying a likely increase in transit across green borders since statistics on apprehensions are generally only available from official border crossings, the focus of EU-funded programming. This assumption was borne out in my field work during the 2015-2016 migration crisis, described in detail in Chapter 6. Thus, strengthened controls at official borders pushed migrants to more circuitous routes through EU-funded border management programmes, which suggests that the overall decrease in apprehensions reflects more successful smuggling networks and increased corruption rather than more effective controls. PHARE programming and the implementation of the Schengen Action Plan meant a shift in border controls from Poland’s western to eastern borders, meaning that irregular migrants and smugglers were incentivized to change routes. This is similarly the case with both Hungary and Slovenia. Shifting routes and readmission schemes meant more disjointed and staccato journeys. In Poland, for example, many border apprehensions included third country nationals who had been returned to Poland through bilateral readmission agreements with EU states (ICMPD 2006).

Access to the region’s newly-developed asylum systems became one of the more common strategies for irregular migration. Once CEE states adopted refugee laws as accession criteria, most irregular migrants apprehended at borders claimed asylum as a matter of course. Across CEE states, as in Western Europe, rejections far outweighed positive asylum decisions; and the majority of asylum seekers simply absconded and moved on before processing was completed (Laczko 2001). Likewise, a negative decision most often resulted in irregular onward movement. In Poland, for example, almost 90% of spontaneous arrival asylum seekers absconded after application.
As Figure 5.2 illustrates, the drop in border apprehensions in the late 1990s corresponded with an overall increase in the number of asylum claims. While statistics do not disaggregate between spontaneous arrivals at borders and other types of claims, the increase in asylum claims are temporally correlated with tighter border controls. Access to asylum became a preferred method for smuggling. The 2004 Hague Programme fixed 2010 as the date for adoption of common asylum and immigration policies, including technical frameworks around border controls and irregular migration, pushing the effects of the EU “migration space” further east and south into Europe’s new peripheries (Ruspini 2008).

In 2007, the entry of the nine CEE states from the 2004 enlargement into the Schengen area meant the removal of border controls and thus greater chances for undetected onward movement. Countries such as the Czech Republic and Slovakia reported a drastic decreases (-95%, -61% respectively) in border apprehensions given the fact that they were now mainly surrounded by “internal” EU borders. In contrast, border apprehensions in new Schengen countries with long external borders, for instance Lithuania and Poland, increased significantly over the same period (+116%, +80% respectively). As Futo et al. argue, “Given that Western European countries had already introduced sophisticated migration restrictions, much of the newfound migration [after enlargement] was destined to be illegal” (2005: 38). Smuggling and trafficking tactics at Schengen’s

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65 Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia, and Slovenia.
external borders showed major changes after 2007, particularly the change to smaller groups, “as a reaction to the significant improvements in the level of border protection and as a strategy to avoid substantial financial losses” (ICMPD 2010: 23).

Enlargement also meant that millions of “potential” migrants became regularized as European citizens and were thus washed out of irregular migration statistics. Decreasing border apprehensions correlate with the 2007 accession of Romania and Bulgaria given that legal travel resulted in a decrease in irregular migrants from these two states (Futó & ICMPD 2008). Broader EU visa regimes affected irregular migration and asylum in the CEE states. When the EU offered visa-free status to Balkan states in 2010, the number of asylum applications in Hungary halved, while they jumped in both Germany in Sweden (Molodikova 2014: 154).

To summarize, the CEE irregular migration system underwent three major changes from the end of the Cold War through EU accession. The period between 1989 and 1998 saw major increases in irregular migration both from and through the region. Flows moved westward toward the EU-15, and the Visegrád countries were the most significant transit routes. Thereafter, CEE states became transit regions for migrants from further afield as well as areas of net immigration. EU policy diffusion meant changes in domestic laws and strengthened border control mechanisms, as well as changes in mobility relations with non-accession third countries. Domestic policy changes meant an increase in asylum applications, as well as the development of more sophisticated smuggling networks. By 2007 the region functionally assumed its role as Europe’s external border in return for open internal borders and full mobility rights for CEE nationals.

5.2.3 Evidence for Malignant Europeanization

The accession process entailed wide-ranging governance, rights, and economic development in CEE states. The region’s crucial geopolitical importance meant that from the outset it was the target not only of EC (and soon EU) foreign policy, but the site of major interventions across all aspects of state and society. As Levitsky and Way argue, “the collapse of communism brought a dramatic expansion of linkage – in the form of rapidly expanding trade with the West; large-scale migration; and an invasion of Western media, NGOs, International Organizations, and party organizations” (2010: 87-88). Little wonder that the region’s historical experience with accession provides the exemplar for the Europeanization research agenda. But as Levitsky and Way illustrate, progressive forms of
Europeanization were not only the result of accession conditionality, but a much broader process of linkages with Western business, civil society, and IOs previously excluded from the Soviet space. Broad linkages were part of a unique historical and geopolitical moment. The uniqueness means the scope and depth of European intervention will likely not be repeated in newer accession states, much less non-accession third countries. Europe’s ability to mitigate the negative repercussions of major changes in irregular migration systems were potentially a one-off historical event.

Despite broader linkages, accession remained the main driver of substantive domestic changes in mobility and border regimes, with major impacts on irregular migration systems. Those impacts are thus rightly considered Europeanization. While the literature on benign Europeanization largely focuses on positive impacts in of enlargement, scholarship on the negative impacts focuses its attention on developments in EU-15 states, particularly political mobilization around uncontrolled migration and attendant labour market impacts (e.g. Eade & Valkanova 2009; Barrell et al. 2010; Glorius et al. 2013). To the best of my knowledge, the following section presents the first systematic evidence for malignant Europeanization in CEE states in the post-Cold War and accession periods. I focus on changes resulting from EU mobility governance and interventions on irregular migration systems – Schengen’s compensatory measures.

It is worth reiterating that the changes in border controls in the region represent a radical, and rapid historical break from the intervening half century. The period of openness after the Cold War led to wider migration and local trading to ameliorate increasing economic disparities. Borders are thus as much areas of commerce, culture, and interaction as they were sharp jurisdictional divisions. While this constitutes a more theoretical point, it is important to understand that accession meant pre-existing regional trade and migration linkages would now be framed under the rubric of European JHA concerns, with intra-regional divisions emerging as a direct result of Europeanization.

**Migrant Human Security**

Interventions on irregular migration systems necessarily affect migrants’ decision-making logics and present obstacles which can make journeys longer, more dangerous, and more prone to abuse by facilitators, state officials, and predatory criminal elements. Findings on the human security metrics for malignant Europeanization mirror trends in the more comprehensive case studies to follow.

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66 Which was itself a radical break from the interwar period, and in turn was a radical break from the Habsburg / Ottoman period.
However in this case they were offset by aggregate changes in domestic law and individual rights as an outcome of accession.

Readmission agreements and the eventual import of the EU *acquis* were major drivers of Europeanization around mobility and borders. Reception and detention centres were generally characterized by severe shortcomings in terms of protection standards, capacity, and sanitation.³⁷ Unilateral Safe Country of Origin and Safe Third Country designations for all CEE states on the grounds of their democratic transition were applied since early 1990s “regardless of the fact that the legislation adopted at the time by the CEE countries did not comply with the international standards relating to the protection of refugees” (Bouteillet-Paquet 2003: 367). Detention centres become the focus of traffickers and smugglers, often providing access to grey economies (Stola 2001). Increasing numbers of asylum seekers were forced into situations of human trafficking as organized criminal networks became more prevalent actors in the system. While counterfactuals are problematic, readmission and asylum processing requires the functional cooperation of the receiving state, and accession provided both the incentives and binding criteria for CEE state compliance. They would likely not have developed at the same pace in the absence of accession conditionality.

With the exception of refugees from the former Yugoslavia, the majority of asylum-seekers applied upon apprehension at border crossings and had no intention in the first place of remaining in CEE states (see Futó et al. 2005; ICMPD Yearbooks). Implementation of the EU acquis and the Schengen Border Code thus pushed migrants into more dangerous situations. While comprehensive statistics are not available, there is some evidence that pushing routes to green borders, i.e. away from official crossings, also meant more fatalities (Hárs et al. 2001; Laczko et al. 2002). Contemporary evidence around more fatalities at green borders suggests that this would also be the case in previous periods. Periodic media reports suggest as much. For example, migrants died attempting to cross the Oder and Neisse rivers, with over 100 bodies found in 2002 (Bort 2002: 202).

Pre-accession agreements created markets for irregular migration and a cycle of returns which undermined human security. Safe Country of Origin designations were predicated on the assumption that Copenhagen Criteria meant *de facto* domestic change (Grabbe 2005). Marginalized and vulnerable minorities were trapped in the interim period before visa free status and admission into the Schengen area, and thus were forced toward irregular means for out-migration. The influx of Roma

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³⁷ See also the Global Detention Project country reports at [https://www.globaldetentionproject.org/](https://www.globaldetentionproject.org/)
to the UK in the late 1990s was met with new visa restrictions. A wave of readmissions facilitated by bilateral agreements in turn created more abuse and resentment for the Roma, but also trapped them in a situation which created increasing pressure to emigrate under irregular means (Grabbe 2000). Roma communities were increasingly scapegoated for poor relations with Europe around free mobility. Safe Third Country agreements meant that international protection was not an option. Thus one of the main normative drivers of Europeanization, the ostensible pre-requisite of the Copenhagen Criteria, created the conditions for making out-migration more difficult and subjected the very minority groups they were to protect to increased vulnerability.

Trafficking of women into the sex trade was one of the more significant and long-term impacts of the end of the Cold War. Governance deficits, geography, and increased criminality made CEE accession states main trafficking routes (Ivakhnyuk 2014). The emergent “Russian mafia” and local partners became dominant actors in the irregular migration system, and the region became a byword for indentured labour, particularly sex slavery. Transnational criminal groups first took advantage of weak governance to move women from the CIS and Balkans through CEE states and into Europe (though trafficking networks also emerged through the Balkans into Turkey and the Middle East, with Israel and Egypt becoming major destinations). Later, the EU’s focus on capacity building on external borders meant that CEE states with internal borders became major transit routes. Warsaw and Budapest were major hubs for trafficking from the former Soviet Union and CEE states, with Nordic and Western Europe as major destinations (Shelley 2010).

The US State Department’s Trafficking in Persons reports from the initial period after the Cold War show low compliance and capacity with international conventions against trafficking and the rights of victims. In Hungary, Poland, the Czech Republic, and Slovenia domestic law treated trafficked women as criminals. In Slovenia and the Czech Republic, women from third countries were generally deported after giving testimony, a process facilitated by EU readmission agreements. Though the situation improved over time, readmission agreements meant trafficked women faced more dangerous and precarious situations in the transitional period.

**Transnational Crime**

There is strong evidence that the Europeanization of mobility and border policies contributed to the emergence and expansion of transnational organized crime in the region. Widening economic
differentials between accession states and Europe’s new peripheries created the economic differentials underpinning market incentives for smuggling. As is the case across the Sahel, North Africa, and the Middle East, transnational criminal networks had originally established smuggling routes to move stolen goods, drugs, and weapons (Juhász; Okólski 2000). Tightened migration controls created market incentives for smuggling people. Increasingly restrictive mobility policies uploaded to CEE states encouraged people to undertake irregular journeys facilitated by transnational criminal groups (Glenny 2004). Attendant movement of people at the end of the Cold War and the breakup of Yugoslavia meant that interruptions in previous smuggling operations were matched by even wider markets for moving people across borders (Lindstrom 2004; Baldwin-Edwards 2008).

The collapse of the Soviet Union was the major driver of the development of human trafficking as a regional phenomenon (see Shelley 2010). ICMPD’s CEE Yearbooks consistently highlight greater professionalization as a direct result of increasing border management capacities. Comparative analysis with Germany into the late 1990s showed that trafficking and smuggling became significantly more sophisticated, with a wide repertoire of clandestine passage through official borders, dangerous journeys across green borders, and the growing prevalence of forged or falsified documents (Salt & Hogarth 2000: 85). Bulgarian, Hungarian, Romanian, Russian, and Turkish organized criminal networks are the most prominent facilitators for trafficking and smuggling through the CEE into Europe.

In Hungary, smuggling organizations developed transnational linkages and decentralized cell structures as a response to tighter controls (Salt 2000: 42-43). Networks came to be run by foreign nationals with overall regional operations directed from inside Russia (Salt & Hogarth 2000; Shelley 2010). The transitional period opened new business opportunities for both smuggling and trafficking, and the two markets began to merge (ICMPD 1999). Most evidence from the period is anecdotal and reliable statistics or qualitative data were not accumulated at the time (Salt 2000). More recent data illustrate that while only 20-25% of irregular migrants were smuggled or trafficked throughout the 1990s, the proportion exceeded 70% into the 2000s in the run-up to accession (Futo et al. 2005). Border guards and officials in CEE states estimated that the use of smugglers rose from 20-25% of cases in the 1990s to over 80% in the mid-2000s (Jandl 2007: 299).

The introduction of EU asylum rules fundamentally truncated migrants’ decision making logics toward irregular migration and thus more market share for criminal networks. For example, Polish
government respondents to the 2000 IOM survey argued that the majority of those using smuggling rings to enter Europe had been returned to Poland through bilateral readmission agreements or had previously been detained under new pre-accession legislation (Salt & Hogarth 2000: 76). Asylum claims upon apprehension became unfeasible after accession and the introduction of EURODAC, widening the market for transnational smuggling directly to Western Europe. According to the ICMPD’s assessment of the situation in the interim period between accession and entry into Schengen: “Repeat asylum applications will in most cases lead to a readmission to the first country of asylum and thus, the incentives to remain clandestine during the whole transit phase are much more stringent than before” (ICMPD 2006: 17). Clandestine movement necessarily implied the use of safe houses, falsified documents, and payments to officials. In Hungary, migrants were generally smuggled into the country in large groups, and split up to for onward movement into Europe.

Transit through CEE states necessarily included transnational networks. The majority of migrants from Asia and Africa first transited through Russia or the former Yugoslavia, usually through Moscow or Belgrade, where criminal organizations facilitated onward movement. Crossing into Hungary via Serbia or Poland via Ukraine required either clandestine passage over green borders, falsified documents, collusion of corruptible officials, or some combination of the three. The ICMPD and IOM suggest the increasing use of false documents and concealment in vehicles rather than crossing at green borders given increased surveillance capacities. It is also likely the case that green border apprehension decreased as a proportion of total apprehensions given the increasing profits from corruption (Uçarer 2002). Finally, it is worth noting that not all facilitators are exploitative, and the ICMPD and IOM both report that some operate on a non-profit basis, or are simply opportunists who will show people the way through a green border.

Corruption

There is strong evidence that shifting management of Europe’s external border, accession funding, and the region’s emergent role as a migration buffer contributed to greater corruption in CEE states. Academic and policy literature on corruption generally differentiates between opportunism or petty corruption on the one hand, and high-level or official corruption on the other (or, from a level of analysis perspective: systemic, institutional, and individual corruption). In the post-Cold War context, the emergence of new markets, weak governance, and the lag in regulation gave rise to a much broader grey economy. Economic self-help behaviour in the immediate post Cold-War context
encouraged an ethos of “beating the system” among public officials and society at large (Wallace & Stola 2001: 10). Smuggling and trafficking required the collusion of both the security apparatus and diplomatic personnel for falsified or fake documents. Corruption among security and diplomatic personnel, particularly in less developed accession states like Romania and Bulgaria, were (and generally still are) endemic (Laczko et al. 2002; Shelley 2014: 10). Throughout my field work, respondents from the Commission, IOM, ICMPD, and Frontex repeatedly pointed to Bulgaria and Romania, and to a lesser extent Hungary, as problematic cases for both official and petty corruption.

Quantifying corruption is difficult for a number of obvious reasons, not least of which is that it can imply the active participation of the agencies responsible for its monitoring (Holmes 2009). Nonetheless, corruption is a key facilitator in all realms of trafficking and smuggling. Weak governance structures and relatively low wages of border control officials incentivize both bribery and high-level complicity (OECD 2015). Transparency International (2011), the Migration Policy Institute (Carling et al. 2015), and the UNODC (2013) all argue that cross-border smuggling would not be possible without official collusion. The ICMPD (2006; 2007; 2008; 2009; 2010) notes that smuggling groups in the CEE region routinely include public officials and members of law enforcement agencies.

Frontex reports, understandably, do not address the role of corruption in smuggling and trafficking operations given that the agency’s role as a forum for cooperation and joint operations. Investigations into corruption would mean an (even more) politically-charged relationship between core Schengen states and those with the responsibility for external borders. As a respondent from Frontex explained:

> Corruption is a sensitive issue in terms of data collection. We have to maintain relationships with these countries in order to have any data collection. In some countries, there is more of a culture of corruption, and it’s a known quantity, like in Albania or Romania or even Hungary. For third countries and for Member States looking at border security, at inherent vulnerability, including an issue like corruption is too sensitive. It’s a sovereignty issue, at the end of the day, and they would just say “take off, thank you very much.”

The admission that corruption is too sensitive a topic for intra-EU data collection amounts to an admission of its significance, implying questions about long-term regional governance impacts of membership. It stands to reason that the migration and market pressures during the “transition” period, weak state structures, and lack of labour mobility for CEE citizens would have given rise to significant corruption around irregular migration.

Salaries and the scale of opportunity are key contributors to corruption among border officials. It is telling that there is an eleven-fold difference between the EU’s highest paid border guards in Luxembourg where opportunities are minimal, and the lowest paid in Hungary, with some of the highest opportunities for collusion (Rusev 2013: 12). Hungary’s accession meant significantly more oversight over borders in regions with existing smuggling networks and organic cross-border trade systems. Some research points to evidence of border guard positions being bought and sold, with the price dictated by potential smuggling profits (Molodikova 2014). Again, these findings were borne out in my fieldwork in the region.

Rusev (2013) argues that the length of external green borders in the East increased the likelihood of corruption, since border guards responsible for those areas simply have to look the other way, whereas as entry through sea or airports or through official border crossings requires more collaborative, active collusion. During my fieldwork in the Western Balkans, respondents from the OSCE, UNODC, local NGOs, and two remarkably candid smugglers all argued that the scale of the crisis had upended long-established business models and routes for irregular crossing over green borders, in which Hungarian border guards were seen as integral. The smugglers argued that the scale of abuse by Hungarian border police was in part a reflection of frustration at lost revenue. Prosecution of corrupt officials in the region is rare, and when they do occur are likely reflections of a power struggle rather than a concerted campaign against corruption (Shelley 2014). It is most often low-ranking border guards who are dismissed for assisting illegal border crossings (Juhász 2000). Though in Bulgaria, as described in Chapter 6, the 2015-2016 migration crisis led to purges of high echelons of the border police.

Weaker accession states likely experienced the most pervasive high-level corruption. A number of studies show significant law enforcement and political representation inside Bulgarian and Romanian smuggling networks in the post-Cold War context (CSD 2004; Holmes 2007; Rusev 2013). While organized crime was repressed during the communist period, transition created the structural opportunities for criminality and high-level collusion, particularly in the fields of prostitution, trafficking, and smuggling into, through, and from Bulgaria and Romania (Holmes 2009: 274). Though explored in-depth in the Western Balkans case study, the vast majority of migrant respondents in 2015 who had transited through Bulgaria reported police extortion.
Full mobility rights and open borders had a two-pronged impact on corruption. On the one hand, entry into Schengen meant that trafficking from CEE states could take place without false documents or clandestine movement. On the other, it meant significantly increased controls and surveillance at external borders. Modes of entry thus became more sophisticated and varied. After 2007, ICMPD reported increasing involvement of staff of government agencies in transnational smuggling networks, particularly in the realm of document fraud and facilitating labour and marriage visas (2010). Implementation of EU visa lists as a prerequisite for accession meant the opportunity for corruption in diplomatic missions in third countries, particularly in regards to falsified documents. Endemic corruption in Romania, for example, meant that Moldovan citizens, who previously enjoyed visa free access, could easily acquire forged documents (Mosnega 2014). Despite Commission oversight, Bulgarian and Romanian judiciaries remained either unable or unwilling to prosecute cases of corruption and collusion with criminal organization (Filipescu 2009; Nikolov & Simenev 2009). Criminal networks often appeared a step ahead of new EU initiatives and changes in border control regimes, indicating either an awareness of new programming through open information channels or mid-level corruption in security services.

At a more systemic level, the influx of money through PHARE and bilateral funding mechanisms likely exacerbated official corruption. In coordination with the OECD, 70% of PHARE funding was allocated to infrastructure development and aligning various sectors with EU-level development in order to protect against the negative impacts of market forces after accession. Commission oversight failed to prevent sectoral capture by rent-seeking elites and corrupt officials (Mungiu-Pippidi 2014). “Accession-driven” programming meant that politicians and senior civil servants in CEE states would be responsible for spending EU monies, and the through-flow of cash became one of the central metrics for “progress” toward membership.

Weak accession state capacity often meant it was not possible to spend money fast enough. According to a 1999 summary of PHARE programming, the European Parliament noted that “shortcomings in the management of the funds have been registered in the majority of the countries concerned. Recently, Poland, Czech Republic and Hungary have been failing to use on time the allocated Phare funds [...] it appears that the reason for these inconveniences is the shortage of well-
trained technical managers in the government.”

Mungiu-Pippidi argued that PHARE “often sponsors directly the domestic administrative corruption and lack of effectiveness, mainly under pressure from Brussels to spend the funds, rather than reach clear measurable targets. ‘Success’ in assistance programmes to some East European governments means, more often than not, the grantees managed to spend the allocated funds” (2002: 65). The observation was repeated by a range of respondents in the Balkans, particularly in Serbia. Likewise, spending money and completing trainings remains one of the metrics for success in engagement with third countries. To repeat the observation from a respondent at DG Home: “In the most realistic terms we’re just about moving ahead with programming. We set an agenda, the bureaucracy moves forward.” Respondents at EEAS delegations involved in CEE accession stated quite candidly that graft in the form of preferential contracts was a known quantity for construction of border control and migrants detention infrastructure.

**Emboldened MNAs**

There is little evidence in CEE states for emboldened militarized non-state actors (MNAs) in the region as a direct result of Europeanization, other than in connection to funding for transnational groups and violence between criminal organizations. For example, competition between Roma and Albanian trafficking and smuggling gangs on the Czech / German border lead to a series of violent disputes in the early to mid-1990s (Jakl 1998). Albanian, Balkan, Chechen, Russian, Turkish, and other criminal organizations routinely compete for market share, with attendant violence. There is evidence that the proceeds from trafficking and smuggling directly financed Chechen, Albanian, and Kosovar militant groups (Salt 2000). However, the popular terrorism/smuggling connection often espoused by Western law enforcement and intelligence services is largely unsubstantiated in academic literature about the region.

**Domestic Political Contestation**

The broad range of positive Membership incentives, negative outcomes of alternate courses of action, and the general perception of “return to Europe” meant a high degree of societal support for

accession. Domestic political contestation around acting as Europe’s migration buffer was delayed in its political impacts until after the accession period. As described in Chapter 6, burden sharing schemes and readmission agreements became a focal point for domestic mobilization after the 2008 financial crisis and particularly during the 2015 migration crisis. Major domestic contestation and conflict tracked closely with anti-EU sentiment, backsliding on rule of law and good governance indicators, support for nativist parties, more overt xenophobia, and mistreatment of minority populations.

The novelty of post Cold-War migration dynamics, and thus the politics of immigration, cannot be understated. In Poland, for example, there was no public debate on immigration until after 1989. Even defining “migration” for the purposes of data collection and public policy remained a low priority before EU intervention. “Anti-immigrant groups with political leverage, as known in Western Europe,” did not exist in Poland until the early to mid-1990s (Stola 2001: 191). Across CEE states, issues of out-group integration did not receive public priority, and thus were not the site of political grievance or mobilization. “Unlike in other Western developed democracies, there is no continuous, historic experience of a long-term coexistence between racially and ethnically different communities” (Drbohlav 2001: 215). However, prevailing negative attitudes toward non-immigrant minority groups were well known and presaged the eventual mobilization around anti-immigrant nativism. The Copenhagen Criteria’s focus on minority groups was more or less geared toward CEE accession states where treatment of Roma, Jews, and other minorities was not only horrific, but largely glossed over in a narrative of 20th century victimhood.70

The end of the Cold War meant an exodus of hundreds of Czech Roma to the UK and Canada in the mid-1990s. Mass deportation of Roma from the former Soviet Union enjoyed widespread support from lower socioeconomic strata. Pervasive xenophobia was mirrored by official ambivalence. Czech judges and the civil service, for example, were generally lenient toward anti-Roma hate crimes (Drbohlav 2001). In Hungary, popular sentiment of historical victimhood, the loss of “Greater Hungary”, and a strong trend of ethnic nationalism were bound up in scape-goating Roma populations, with violent crimes and harassment routinely going uninvestigated, much less prosecuted (Hárs et al. 2001). Widespread xenophobia was born out by rather disturbing public opinion survey results on minorities and immigrant groups (Ringol 2000). Accession meant that

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Roma, in particular, were returned to CEE states under safe country of origin agreements, leading directly to further victimization.

The promise of expanding markets and freedom of movement were significant enough to forestall major domestic political contestation. Changes were more structural insofar as the politics of guarding Schengen’s external borders introduced an entirely novel issue area and CEE politicians and pundits parroted anti-immigrant political discourse in Western Europe. For example, the Hungarian press mirrored discourses around being the “front line in the immigration war” (quoted in Juhász 2010: 169). Hungary’s rightist coalition government were among the first to frame immigration as an electoral issue. In 1998 Ministry of Interior stated that “Schengen has become the ultimate element of the accession,” and that the country would, as a result, face new dynamics of ethnic tension (quoted in Hárs et al. 2001: 268). The emergence of the narrative of invasion and heightened xenophobia from elected officials came to the fore after immigrants were blamed for murders in Budapest in 1998, after which the PM declared that “There is no public security in Hungary. The number of foreigners among felons is 80 percent” (ibid: 271). Readmission agreements also contributed to the perception of asylum-seekers as threats to public order given that the readmission of asylum-applicants whose claims have not been properly vetted would become the burden for transit states (Nagy 1995). These sentiments would come to a fever pitch in the 2015-2016 migration crisis and its aftermath, when the Őrban government came to wed anti-refugee and anti-Brussels sentiment with a resurgent anti-Semitism and narratives of an international cabal of Jewish finance, led by George Soros, undermining the authentic Hungarian nation.

While politicians began to mobilize around the impacts of non-Christian immigrants, INGOs and European civil society organizations like ECRE and the Helsinki Committee not only tempered the debate but framed the discourse in countries where civil society mobilization and public campaigns were still novel experiences. Nonetheless, the region offered fertile ground for anti-immigrant sentiment, and in time political entrepreneurs would employ CEE states’ new role as Europe’s migration buffer for electoral gain. In Hungary, a long-established narrative of imposed borders and incongruity between territory and the Hungarian “nation” generally glosses over the fact that the most recent reestablishment of the “right” borders was dependent on collusion with Nazi Germany and the utter destruction of Hungary’s Jewish and Roma populations. Similar sentiments exist across the region, most notably in Poland, where the mention of Polish complicity in the Holocaust has

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become increasingly taboo and linked with the notion of a Brussels-driven “liberal” agenda designed to undermine Poland’s traditional values.71

Czech, Hungarian, and Polish officials worried about the political impacts of reintroducing border controls so soon after the end exit controls since “In countries where being able to cross borders freely is a relatively recent achievement, the symbolic importance of the re-imposition of a border as a factor inhibiting this newly-acquired freedom is significant” (Mitsilegas 2002: 675). Equally important and commented-upon was the requirement to collect data on ingress and egress, which, given the region’s recent history of mass surveillance, was obviously problematic.

**Entrenched Authoritarianism and Democratic Backsliding**

There is little evidence for entrenched authoritarianism as a result of accession Europeanization, particularly if the Soviet period is the benchmark for governance. As discussed in the Balkans case study in Chapter 6, the 2015 refugee crisis created major incentives for democratic backsliding and emboldened nativist political parties in CEE states and some states in the Western Balkans. Hungary would come to instrumentalize its role in Schengen in order to attract ethnic Hungarian migrants with the potential for free mobility into Europe.

**Burden-Shifting & Regional Tensions**

There is strong evidence that accession Europeanization exacerbated regional tensions between candidate and non-accession third countries. Schengen’s new external borders upset emergent migration and trade dynamics, particularly given growing economic differentials between states. Accession states’ foreign policy agendas were significantly dictated by accession dynamics and EU Member States’ geopolitical interests. As Stola argues, in CEE states “Ostpolitik seems beholden to Westpolitik” (Stola 2001: 197). Accession meant a widening GDP gap with the more eastern and southern states now in the European “neighbourhood” rather than Europe itself (Wallace & Stola 2001). Economic growth disparities necessarily implied a surplus pool of labour, which would come to consider irregular migration as an option for improving life chances.

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Newly-erected borders generated significant international political and economic tensions. By complying with accession conditionalities, new member states would necessarily alter their relations with Eastern neighbours. For example, Hungary instituted visas for nationals of Ukraine and the former Yugoslavia, who had previously enjoyed visa-free mobility. The immediate result of new controls on the Polish-Ukrainian border was a 50% decrease in regular cross-border traffic (Mungiu-Pippidi 2002). Closing of the cross-border bazaars and new border controls in Poland meant shutting down the trade that had flourished in the region since the early 1990s, exacerbating regional wealth disparities (Wallace 2002). Trade at the bazaars fell by over 30%, leading to greater unemployment in Poland’s impoverished east. Likewise, a new Polish alien law in 2000 resulted in Russian protests and retaliatory visa requirements, with Belarus withdrawing its Ambassador from Warsaw. Polish businesspeople working in Ukraine and Lithuania protested new visa arrangements (Bort 2002). However, economic impacts of closures to the East were mitigated by the large-scale opening to the West.

Enlargement had major impacts on accession and neighbourhood states alike. At Tampere in 1999, the Council passed a resolution inserting a readmission clause into all subsequent cooperation and association agreements with third countries. Border guards and security officials in Hungary explicitly stated their major challenge as preparing for the increased burden of responsibility for the EU’s external borders (Juhász 2000). The majority of “apprehensions” recorded at the Hungarian/Austrian border through the 1990s were irregular migrants previously returned through bilateral readmission agreements. Travel from Moldova, which has a large Bulgarian minority, dropped by 50% when Bulgaria introduced Schengen visa restrictions as a prerequisite for removal from the Schengen “blacklist” (Jileva 2002). Compliance led to reciprocal visa restrictions from Ukraine and Russia, with the important Black Sea tourism industry suffering as a result. Regional tensions directly undermined the stated goal of “neighbourliness.”

Member States’ relations with candidate states also had significant impacts in terms of incentivizing permanent out-migration. Visa and labour restrictions on Romanians and Bulgarians in the UK led to increased irregular migrant stocks in the Britain through overstaying expired visas (Sriskandarajah & Cooley 2009). Romania’s population decreased by 1.1 million from 1992 to 2002, with roughly 70% of the decline attributed to permanent out-migration (Baldwin-Edwards 2008). EU-mandated visa restrictions were one of the key drivers in the development of Hungary’s new nationality laws granting the possibility of citizenship to all ethnic Hungarians residing in “Greater Hungary”. By
some estimates up to a million third country nationals are eligible for access to the Schengen area through Hungary’s ethnic citizenship laws (Molodikova 2014: 181), and up to 750,000 had gained citizenship by 2011, predominantly from Serbia and Romania.

Brussels sought to ameliorate differences with new peripheral states through the European Neighbourhood Policy, and the Council’s High Level Working Group drafted Action Plans for third countries in the neighbourhood (Barros 2001). According to Mitsilegas: “In countries where being able to cross borders freely is a relatively recent achievement, the symbolic importance of the re-imposition of a border as a factor inhibiting this newly-acquired freedom is significant” (2002: 675). The Ukrainian President claimed that the EU had replaced the Iron Curtain with a “Paper Curtain” of new visa and trade restrictions (Lavenex & Úçarer 2004).

**Norm Degeneration**

The EU’s first Regional Protection Programs were implemented in Eastern Europe and the African Great Lakes region in the early to mid-2000s. It was no doubt in Member States’ interests to improve the reception capacity in CEE states in order to facilitate readmission agreements and safe third country designations. The difference between the regions, of course, was the potential for direct policy transfer and binding conditionality. Thus norm degeneration in CEE states was offset by aspects of benign Europeanization.

Arguments around norm degeneration in the context of enlargement are complicated by the fact that the majority of the states did not have functioning asylum or migration regimes at the end of the Cold War. At one level, accession meant the diffusion of European reception criteria, more states signing international treaties, and developing asylum systems with at least an official commitment to international protection. Indeed, it might be argued that the process of Europeanization led to a net positive outcome by improving the reception procedures in accession states (Phuong 2005). On the other hand, though parts of pre-accession funding were ostensibly allocation to developing reception, status determination, and protection standards, in reality the most went to facilitating readmission and upgrading border controls.

At the end of the 1980s the UNHCR was already criticizing Western European states for tightening asylum regimes and effectively shifting the burden to the CEE states, which joined only at the end of
the 1980s and thus did not have the legal or bureaucratic infrastructure in place to process the majority of asylum requests (Uçarer 2002: 21). According to a German government report, readmission agreements and transferred funds to Poland and the Czech Republic undermined refugee protection (cited in Bouteillet-Paquet 2003: 365). The notion of ‘safe’ third countries to which a refugee or asylum seeker can be expelled are, under the 1951 Convention, based on some tangible ‘link’ to that country. The EU has been at the vanguard of extending that link to the tenuous connection of short-term transit, embodied and codified in the Dublin Regulations (Cherubini 2015: 82). As discussed above, candidate countries adopted the same concepts of safe third countries and countries of origin as the EU, essentially pushing the burden for refugee protection further afield to states with dubious commitments to human rights or insufficient state capacity to ensure adequate protection standards (Bouteillet-Paquet 2003). CEE states thus undertook deportations that they would not have otherwise contemplated as a direct result of accession Europeanization (Peterson & Bomberg 2000). One of the ultimate outcomes was the potential for réfoulement through “chain deportations” from Member States, through CEE accession states, back to abusive transit countries, implying the erosion of the fundamental norm of non-réfoulement (Byrne et al. 2002).

Direct policy transfer and legal reforms were subtended by support for tighter asylum criteria and the construction of detention centres. The logic was simple: asylum in new Member States could create pull factors and open borders would mean that those who arrived would have immediate access to the Schengen area, rendering the compensatory measures of tightened external borders somewhat moot. Therefore, “the second objective of EU efforts to modify asylum systems in candidate countries has been to ensure that these countries do not become too attractive to asylum seekers: they must therefore also adopt deterrence measures similar to those already in place in Western Europe” (Phuong 2005: 395). As described above, the majority of asylum applications in CEE states are denied, mirroring the changes in Western European asylum systems.

Individual CEE states have adopted increasingly harsh asylum legislation. Into the late 1990s and early 2000s, the majority of apprehended irregular migrants in CEE states claimed asylum and then absconded, as did nearly 75% of all asylum seekers (IOM 2000). More recent research after entry into Schengen shows that Hungary’s strict asylum system (with one of Europe’s lowest positive decision rates) incentivizes onward irregular movement. A 2011 law, with a mandatory 12 month detention period, aimed to deter asylum applications. Dublin regulations drive a trend where asylum seekers can be bounced around between different states, incentivizing the use of irregular facilitators
and entry into the grey economy. The result of accession Europeanization is thus a double-edged sword. On the one hand, CEE states are now responsible for processing the majority of asylum claims at the EU’s external borders. On the other, strict asylum regimes in line with European norms incentivized irregular secondary movement into Europe and for CEE states to deport returned asylum-seekers to “safe” third countries outside the EU.

Finally, the nascent Common European Asylum System and the implied burden on front-line states incentivize burden-shifting. As a respondent from Frontex argued:

> Without a doubt the Eastern and Southeastern borders are the weakest part of Schengen, and I don’t mean weakest in terms of control, but weakest in terms of broad cooperation. What’s really missing is a common policy or law for punishment of facilitators because the jurisdictional differences create pull factors. And of course, there are arguments about who will pay the billions necessary for patrols. We’re part of a common system but there’s also the sense in the CEE states that if it’s someone else’s problem it’s not my problem.\(^2\)

These dynamics are dealt with in detail in both of the in-depth case studies to follow, as well as concluding chapter. Suffice it to say at this point that the norms of burden-sharing and solidarity between Member States have fallen prey to state-level interests and domestic politics.

Europeanization of asylum laws in CEE states thus undermined norms of *non-réfoulement*, international protection, burden-sharing, and the differentiation of refugees as a unique category of migrant to be afforded special protection. In sum, and to quote Lavenex: “By favouring restrictions to freedoms, the bilateral activities which induced the adoption of asylum laws and regulations by the CEE [countries] thus tend to run counter to the liberal spirit of international refugee protection” (1999: 86). It is not hyperbole to state that externalization of migration control mechanisms through enlargement is rightly understood as a first and major “success” of Europe’s post-Cold War restrictive asylum regime in service of the development and protection of the Schengen regime. Once again, however, the counterfactual question is whether asylum regimes in CEE states would have been more or less open in the absence of enlargement. The point here is not that the adoption of Schengen’s compensatory measures led to overall norm degeneration throughout the region, but that Malignant indicators are present even amid the overall positive picture of Europe’s post-Cold War influence in Central and Eastern Europe. Expanding the scope of indicators complicates the narrative of enlargement as Europe’s great foreign policy success story.

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\(^2\) Interview with Frontex Personnel (Risk Analysis Unit). June, 2013. Warsaw.
5.3 The Western Mediterranean System: Closed Borders & Third Country *Bon élève*

Europeanization in the Western Mediterranean irregular migration system differs fundamentally from the CEE accession states and is a clear example of the different types of leverage the EU enjoys vis-à-vis accession states and third countries. EU engagement with transit states is a more overtly political game of bargaining given the absence of membership incentives. Compliance is thus significantly more mixed across states in the system.

European domestic politics played a crucial role in EU engagement with the states in the Western Mediterranean irregular migration system. While until 2009 the majority of apprehensions occurred on Europe’s Eastern borders, political discourse focused on the Mediterranean given that flows were a more spectacular symbol of uncontrolled borders with the global South. The discourse of “floods” and “waves” of migrants were dominant despite the fact that the majority of irregular migrants entered Europe legally and overstayed visas. For example, Italian regularizations in 2002 and 2003 required irregular migrants to present themselves to authorities; 700,000 applied. The majority (66%) had overstayed their work or tourist visas. Only 10% had entered the country without documents. Nonetheless, engagement with North African and Sub Saharan transit and sending states quickly became a focal point for Schengen’s compensatory measures.

North African states in the system have received the majority of the EU’s focus and funding given their role as final transit states. At a discursive level, however, the notion of “transit migration” is often a “blurred and politicized” concept (Düvell 2012). Understanding North African states as essentially transit areas obscures the region’s historical ties to Europe as well as their role as both a sending and destination region. The literature is relatively unanimous that the concept of transit states was employed to legitimate securitized policies, and was exported to other geographical regions through a process of policy diffusion and path dependency (Balzacq 2009; Collyer & de Haas 2012; Zaiotti 2016).

Morocco is the most important state in the system for analyzing the development and impacts of Schengen’s compensatory measures. Not only has it served as the most important, and final, transit state in the system, it is also the subject of the majority of scholarly research. Morocco is portrayed as the *bon élève* of third country partners given its now close relationship with the Commission over
migration governance. It is presented in EU public relations and diplomacy as a net beneficiary of the “more for more” approach in terms of development aid, free trade, and the potential for visa liberalisation: an exemplar for other would-be partner states (Collyer 2016: 615). At the same time, Morocco is presented in the scholarly literature as a “hard bargainer” given it took over a decade before agreeing to sign the EU Readmission Agreement (EURA) within the context of Mobility Partnership framework (Wolff 2014). Other states in the system, including Algeria, Mali, Mauritania, and Senegal are important for studying the effects of Europe’s irregular migration policies, but have received far less scholarly attention.

5.3.1 Methods and Data

While Morocco was the first site of preliminary fieldwork for the project, the majority of the research in this case study is derived from secondary sources. I visited Morocco for one month in the summer of 2009: “soaking and poking,” as the methods literature describes it. The goal was simply to see the Ceuta and Melilla border fences, speak with NGO personnel, and visit migrant camps. The major outcome was to shift my perception on the issue area. I had previously approached the mobility aspects of the European project from an exclusively International Relations theory perspective, i.e., as coextensive with a mature security community characterized by pooled sovereignty and dependable expectations for peaceful change (Adler & Barnett 1998). The time in Morocco brought home the human impacts and the power politics of Schengen’s peripheries. I refer to some conversations from the period but do not employ data systematically.

Figures on border apprehensions, migrant fatalities, and detentions are taken from a number of sources. Frontex and Member State data on apprehensions are used. Though as with the CEE case pre-2009 data as compiled under the CIREFI database are incomplete. The situation is complicated by rather scant data collection in transit states. de Haas (2007) and Collyer (2009) argue that apprehension data is likely more a reflection of the intensity of controls rather than the scope of flows. Reports from NGOs, IGOs, and rights organizations play a major role in evidence for malignant Europeanization across levels of analysis.

The Western Mediterranean system is characterized by significantly more risk of harm and death than the CEE system. However, no organization is tasked with tracking migrant deaths internationally and there are inherent and likely irreconcilable methodological issues in doing so (see
Laczko & Thompson 2014). Many migrants die in remote areas or are lost at sea, and so their deaths are never reported. The IOM (2014) speculates that the Mediterranean is far and away the deadliest sea in the world for migrants, accounting for 75% of global deaths. By the IOM’s estimate at least 22,400 people have died crossing since 2000. The number of deaths at sea has risen precipitously since 2010, with 2016 the deadliest year on record despite increased maritime rescue operations. Several thousand have died crossing the Sahara.

5.3.2 Irregular Migration System Dynamics & EU / Third Country Interactions

5.3.2.1 The Development of the Western Mediterranean Irregular Migration System

The Western Mediterranean irregular migration system spans West, Central, and North African sending and transit states. Spain is the primary destination state in Europe. Until the 1990s, migrants arriving in Europe were typically economic migrants from North Africa, particularly Morocco, Algeria, and Tunisia given colonial ties. Trans-Mediterranean circular migration was a key labour source for Southern Europe’s agricultural sector (Bade 2003). Spain’s accession to the EU in 1986 was a key trigger for more permanent irregular migration (Hoerder 2002; Natter 2014). New visa restrictions in Italy and Spain in 1990 and 1991 significantly constrained well-established circular migration systems, leading to an increasing number of migrants overstaying visas and undertaking irregular journeys across the Strait of Gibraltar (de Haas 2014).

Push factors from civil conflict, insecurity, and poverty meant North African states, particularly Morocco, emerged as transit routes for irregular migrants from Sub-Saharan Africa. Through the 1990s, an estimated ten to fifteen thousand irregular migrants from Sub-Saharan Africa entered Morocco, and another fifteen to twenty thousand Moroccans and third country nationals left Morocco for Europe (Düvell & Vollmer 2009; Natter 2014: 15). The proportion of Sub-Saharan Africans apprehended crossing the Straits of Gibraltar increased from under two percent in the late 1990s to around a quarter of total apprehensions in 2003 (Carling 2007).

Migration in the Western Mediterranean system is characterized by staged, fragmented movement even more so than in the CEE states (see Collyer 2010). Migrants generally arrive in Morocco via two routes: The first is up the West coast through Mauritania and Western Sahara to Morocco. The land route crosses the Sahara through the hub cities of Agaedez in Niger or Gao in Mali to Algeria,
where the migration routes split toward Morocco or Tunisia and Libya and join with the Central Mediterranean system. Though the Moroccan / Algerian land border is over 1600km in length, the majority cross in the North of the countries, near the coast, from the Algerian city of Maghnia toward the Moroccan city of Oujda, near the Spanish enclave city of Melilla (de Haas 2009; Frontex 2013).

As was the case with Hungary in the CEE system, Morocco became a focal point for EU irregular migration policies given its historical connections with Europe and geographic position as a final jumping off point for Europe. For example, Tangiers is referred to as Bab Europa, or the “gateway to Europe” (Ribas Mateos 2005: 228). The North of Morocco became both a final stepping-off point to Europe and a hard border for irregular migrants. North Africa transformed from a source to a transit region, though the framing of Morocco as a transit state ignored the reality of complex circular and permanent chain migration between Morocco and Europe, particularly Spain, the Netherlands, Belgium, Spain, and Italy (Ribas Mateos 2005: 243).

The development of the Western Mediterranean irregular migration system can be divided into three general periods. Until the late 1990s, most migrants travelled overland and attempted to cross the Straits of Gibraltar or into the Spanish enclave cities of Ceuta and Melilla on the North African coast. In 1999 Spain began construction of border fences around the cities, and in 2003 completed a comprehensive radar system (SIVE - Sistema Integrado de Vigilancia Exterior) to detect and interdict migrant boats. After 2002, irregular migration routes diversified from predominantly moving through Morocco to boat migration from the West Coast of Africa, predominantly from Mauritania but also from Cape Verde, Senegal, and Moroccan-occupied Western Sahara, to the Spanish Canary Islands, though Morocco remained the primary transit point to Europe. Migrant populations built up in Moroccan cities and in the forests and hills around Ceuta, and in 2005 stormed the border fences of the city in a highly publicized action. Spain and Morocco clamped down. Spain added a third, 6 metre high climb-proof fence with more razor wire and completely sealed the cities. In 2006 the migration flow diverted more significantly from Morocco to sea crossings from West Africa to the Canary Islands.

In 1999, only 875 irregular migrants were apprehended approaching or en route to the Canary Islands. The figure rose to 2,410 in 2000 and 4,112 in 2001 (Väyryren 2005: 159). Unlike Morocco, Mauritania was a country of net immigration throughout the 1970s and 80s. It was also the last country in the world, in 1981, to formally abolish slavery. The state encouraged migration to fill
labour market demands, and from the 1990s onward it hosted significant numbers of refugees from civil conflicts in Liberia, Sierra Leone, and the Ivory Coast (MPC 2013). From the mid 2000s it had transformed into a transit country, though it was largely impossible to differentiate between labour migrants, refugees, and those using the country as a transit state. Crossings to the Canary Islands peaked in 2006 at 31,600. Spain stepped up maritime interdictions and expanded the SIVE radar system to the Canaries, and conducted large scale returns to West African transit states, which then conducted onward deportations to earlier transit and sending states. Flows to the Canaries were largely stemmed by 2010.

By 2008 there was a clear downward trend in irregular arrivals in Spain, with many West African migrants abandoning the route entirely in favour of the Central Mediterranean route through Libya to Italy. Scholarship is unanimous on the fact that a large proportion of Sub-Saharan African migrants in North Africa either intended North African states as primary destinations or shift their decision-making in response to stricter controls or the dangers of crossing the Mediterranean.
The slight uptick in 2011 and 2012 can be entirely attributed to the events of the Arab Spring, which affected both Tunisia and Algeria. Though several thousand migrants are still apprehended, the majority are returned to transit states under readmission agreements or kept in Ceuta and Melilla since Spain abandoned its practice of transferring asylum seekers to the mainland. The system has been the least travelled of irregular migration systems to Europe since the immediate aftermath of the Arab Spring, accounting for less than ten percent of total crossings to Europe. Small populations of migrants remain trapped in Morocco and West Africa, though the flow has largely shifted, and the Central Mediterranean route now accounts for the vast majority of flows from Sub-Saharan and West Africa, as detailed in Chapter 5.

### 5.3.2.2 EU Priorities and Programming

As described in detail in Chapter 3, EU relations with transit and sending states in the Western Mediterranean system are characterized by a number of overlapping regional processes and bilateral initiatives. As in the Central Mediterranean system, bilateral relations are dictated by colonial and labour markets ties. Southern European Member States, particularly Spain, have taken the lead. It was not until the mid 1990s that overland irregular migration to North Africa became a major policy focus (Collyer 2010). EC/EU policy in the region developed from the Global Mediterranean Policy, to the Euro-Arab Dialogue, to the Barcelona Process in the 1990s when irregular migration became the “hot new topic” in Euro-Mediterranean relations (Bicchi 2007: 134).
The shift was driven, in large part, by the politicization and securitization of migration in Southern European states. Beginning in the 1990s, European policymakers and academics began discussing the “new migrations” to Europe to refer to multi-state, multi-stage, overland transit migrations. According to Collyer and de Haas, “Although the term may look innovative, it does not challenge but actually reinforces the notion that migratory moves have fixed starting and end points, and, by doing so, it essentialises the transit space by reducing it the a ‘through’ space” (Collyer & de Haas 2012: 479). Scholars argue that the fundamental misconception underlying EU policy and political rhetoric is that all Sub-Saharan migrants in North Africa are “in transit” to Europe (e.g. de Haas 2007). This is not to say that the concept of the “transit state” is entirely false, but that European policies were dominated by the image of North African states as exclusively transit states holding back a great wave of migration pressure when many of the migrants in North African states in the period were involved in domestic labour markets (de Haas 2007).

The Western Mediterranean system was the first locus of the EU’s “root causes” approaches to migration management, the logic of which is simple: since migration is based in economic differentials, making regions of origin economically and socially viable should change decision-making logics to undertake irregular migration. Recent scholarship with the benefit of more longitudinal and dynamic evidence suggests otherwise. According to de Hass, development is complimentary to, rather than a substitute for migration. “At first sight,” he writes, development policies:

Sound laudable and seem to make more sense than policies that rely exclusively on repression. Yet the belief that policies focusing on development aid, trade, and temporary migration will reduce permanent migration [...] implies that migration is undesirable – the antithesis of development – and is therefore a problem that needs to be ‘solved’. [It also] assumes that development in sending countries will reduce migration (2007: 821).

The development-as-containment models overlook the complex relationship between development and migration. Migration is endogenous to development, not a substitute for it. Research shows that economic development actually increases out-migration in the medium term (Papademetriou & Martin 1991; de Haas 2008; Castles 2010; World Bank 2016).

Launched in 1995, the Barcelona Process sought to control out-migration by balancing the development of the North African and Middle Eastern Mediterranean states with their European counterparts. Barcelona’s official communication stated its goal as the creation of “an area of peace and stability, of shared prosperity through sustainable and balanced economic and social
development, of development cooperation and of mutual understanding and tolerance of people of differing cultures and civilisations” (quoted in Battaini-Dragoni 2003). Barcelona was a non-starter with third countries given that it was essentially a mechanism for one-way European policy transfer which failed to differentiate between the interests of specific third countries. The subsequent Euro-Mediterranean Partnership shifted to a differentiated bilateral approach through Association Agreements (Lavenex & Uçarer 2004). The Barcelona Process and its later iteration in the Euro-Mediterranean Partnership (EMP) were eventually subsumed under the wider European Neighbourhood Policy (ENP)-South. To reiterate, the goal of the ENP was to create a zone of liberal peace around Europe’s peripheries, and to attempt to apply the lessons and mechanisms of enlargement to non-candidate third countries.

EU relations with the states in the system are further complemented (and complicated) by a series of Regional Consultative Processes (RCPs), including the Rabat Process, based on the Global Approach to Migration and Mobility (GAMM) pillars (described in Chapter 3), and the overlapping “5+5” Western Mediterranean partnership process between the five member states of the Maghreb Union (Algeria, Libya, Mauritania, Morocco, and Tunisia) and five EU Member States (France, Italy, Malt, Portugal, and Spain). Inter-ministerial dialogues served as a mode of more direct policy transfer and differentiated relations (Collyer 2016). The main function of the 5+5 Dialogue was to create networks and strengthen bilateral ties at the working level, somewhat independent of the political level (Hansen 2010). Readers unfamiliar with the issue would be right to conclude that the policy field is as muddled as it sounds.

While RCPs are somewhat effective for developing networks at the working level, the lack of incentive structures for domestic political transformation means that benign Europeanization is largely absent. States on both sides lacked commitment to achieving the goals of the ENP, exemplified in the fact that it receives “minuscule” funding for programmes to foster democracy and civil society (Hadfield 2009). Nonetheless, Schengen’s compensatory measures, particularly hardened external borders, carrier sanctions, and bilateral relations with key transit states change irregular migration systems, compelling third countries to respond.
5.3.2.3 Compliance and Europeanization

Compliance and rule adoption in third countries is conditioned by limited external incentives and attendant difficulty in overcoming domestic political repercussions for the increased burden of migration management. While interactions with third countries are often framed through high-level dialogues, observable mechanisms for policy transfer occur between civil servants, academics, and personnel at the operational level (Hansen 2010; Collyer 2016). Policy transfer and formal rule adoption rarely result in observable good governance or rights reforms. Instead, Europeanization is most readily evidenced in changing orientation toward “combating” irregular migration, including stricter border controls, bilateral cooperation, interdictions, detention, and readmission agreements.

Along with Turkey, Morocco applied for EC membership in 1987. Morocco was rejected outright by the Council on the grounds it was not, geographically, a European state (Gateva 2015: 13). In the years that followed it became a crucial transit state for irregular migration management. Moroccan migration relations were largely dictated by Spanish / Moroccan bilateral relations, just as relations with Cape Verde and Senegal were largely dictated by bilateral ties to France. Over two decades, Morocco has emerged as the most important European partner for migration management in the system. In addition to Tunisia, Morocco is one of only two states to emerge from the Arab Spring with an observably more stable and somewhat less authoritarian government and hence the capacity and willingness to enter into binding and meaningful relationships with the EU. Throughout my field work with EU officials, Morocco was consistently put forward as an example of a successful third country partnership for controlling irregular migration. Contrary to the “good pupil” model proposed by EU policymakers, academic literature portrays Morocco as a “hard bargainer” (e.g., Natter 2014; Wolff 2014).

As described in Chapter 3, in 1998 the Council established the High Level Working Group on Migration and Mobility (HLWG) to map irregular migration pressures and streamline Schengen’s compensatory measures toward them. Morocco and other third countries rejected the HLWG’s Action Plans given that they were prepared unilaterally and presented as a finished product. The Action Plan for Morocco called for changing domestic law to criminalize irregular entry and exit. In 2000 the HLWG established a “Permanent Dialogue” with Morocco, leading to eight rounds of unsuccessful negotiations between 2003 and 2005. The Dialogue was all but stalled as a result of eroding bilateral relations with Spain. For instance, in 2001 Morocco recalled its ambassador from

The situation changed drastically after the 2003 Casablanca bombings and the 2005 mass-incursion incidents at Ceuta and Melilla. Morocco enacted a new law on immigration, capitalizing on the Western fixation on anti-terror activities in Muslim partner states, after which Spain and Morocco re-established their diplomatic missions, highlighting the newly central role of what Geddes (2011) calls “international migration relations.” Morocco leveraged its role in the migration system to gain concessions from European counterparts – a trend which would repeat itself throughout the Central Mediterranean and Western Balkan case studies to follow.

Morocco’s strategy of formal compliance with the EU’s irregular migration control in exchange for future dialogue on visa liberalization and development aid is an increasingly well-worn path for third countries. The new law, and establishment of a Department of Migration and Border Surveillance and a “Migration Observatory” is characteristic of a progressive alignment with European approach after 2003, rather than a response to internal Moroccan security concerns (Lahlou 2008). There is little evidence for liberal norm diffusion, and European engagement generally stops at influencing law and policy to affect migration flows.

Morocco’s Association Agreement (2000) and the European Neighbourhood Policy Instrument (ENPI) (2007) granted it the status of a “privileged partner” with access to additional funding facilities for irregular migration management. In September 2013 a report from the Moroccan National Human Right Council (CDNH), a governmental body reporting to the King, stated that “with the support of the European Union, a policy of control of illegal emigration has been put in place, with real successes as evidenced by the numbers of arrests and the statements of satisfaction from various European countries” (quoted in HRW 2014: 58). The portions of the law pertaining to irregular migration were directly cut and pasted from French legislation, amounting to a form of direct Europeanization through legal and policy transfer (Elmadmad 2007). The new legislation officially conformed to “international conventions on the rights of emigrants and foreigners” while respecting “Morocco’s commitment toward its partners in the domain against the fight against emigration” (translated in GADEM 2010: 8). However, scholarship on the politics around the
legislation argues that the quick adoption of the law was the result of a push from the Commission to crack down on smuggling rings rather than a commitment to international protection norms (Carling 2007; Lahlou 2008).

As described in Chapter 3, my fieldwork shows that EU policymakers and civil servants often had an up-to-date grasp on scholarly terminology and debates. As a respondent from DG Home described the relationship with Morocco:

The new law is, in itself, a form of Europeanization. The EU needed an institution it could speak to. A first step in these types of dialogues is to create a like-minded entity which speaks the same policy language. Of course it will include strong clauses on rights protections, but rules do not necessarily mean compliance.  

Morocco is the single largest recipient of ENP development aid, and reconciliation with Spain came with €390 million in bilateral investment deals. But Morocco’s policy change was also the result of domestic political calculations, which allowed for different cost / benefit calculations for formal compliance (Natter 2014).

While Wunderlich (2012) argues that domestic pressure around the Ceuta and Melilla incidents and public indignation around the drowning of Moroccan nationals in the Mediterranean influenced Moroccan compliance, it is crucial to realize that a relatively small population of 20,000 irregular migrants (of a population of over 30 million) reside in Morocco at any given time, and even fewer were crossing the Straits of Gibraltar or attempting to enter Ceuta and Melilla. Migrants are geographically concentrated in the North of the country, and the issue area has a relatively small impact on Moroccan domestic politics. The Moroccan government criminalized irregular migration after the Casablanca bombings as a mode of connecting domestic security concerns with EU priorities (Lahlou 2008). Natter’s argument that the politicization of irregular migration was a top-down process in Morocco is convincing, insofar as “the political agenda-setting was therefore not a response to public demand, but [...] a strategic decision to improve the country’s political weight in the region” (2014: 17). The bottom line is that Morocco transformed its domestic political agenda given the regional political importance of irregular migration, particularly the leverage it offered in dealing with the EU, rather than evidence of the effectiveness of EU incentives in overcoming non-compliance.

Morocco’s compliance changed in 2013 as a result of new mobility incentives from the EU.

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While Morocco had concluded a series of bilateral readmission agreements with Member States, and the Commission had the competency to conclude comprehensive Mobility Partnerships, it was not willing to offer the carrot of visa-liberalization, an incentive with high domestic political salience in Morocco. Morocco refused to sign a European Readmission Agreement or Mobility Partnership in part because of the EU’s inability to sign agreements with other states in the system, meaning that Morocco would carry the burden of readmissions for third country nationals who transited through its territory. By 2013, there had been fifteen total rounds of unsuccessful negotiation.

Until the Arab Spring, visa facilitating was never on offer for Southern Neighourhood states (Wolff 2014). However the concerns over mass influxes and the desire to keep Morocco stable meant a change in incentives from the Commission. In 2013 Morocco, the EU, and nine Members States finally signed a comprehensive Mobility Partnership, which included a readmission agreement in exchange for a commitment to future visa liberalization. The same year, Morocco offered migrants the opportunity to regularize, which encouraged some to stay in the country rather than attempt to cross into Europe (Altai Consulting 2015). Using Spanish and EU funding, Morocco began construction of another layer of fencing on its side of the border around Ceuta and Melilla. The case is important since the EU frames these developments as the pinnacle success story in externalized migration controls, to be emulated in other transit states.

The salient point for this study is that Moroccan compliance was the result of almost fifteen years of hard negotiation, with a relatively stable state, where hardened borders and maritime patrols had already stymied irregular migration flows and pushed migration routes to the Central Mediterranean system. They represent a rather limited example of functional compliance which does not amount to benign Europeanization.

While exhibiting some formal compliance with Schengen’s compensatory measures, evidence for benign Europeanization is even more scant among other states in the system. As was the case with Morocco, in 2007 Mali and Mauritania introduced laws which directly copied French legislation on irregular migration. One of the founding members of the “5+5” Dialogue, Mauritania has, since 2003, taken on a more significant role as a partner state for Europe’s externalized migration controls (MPC 2013). While the new law was the first instance in which legislation offered the opportunity to prosecute slave-owners, IGOs estimate that anywhere from 45,000 to 600,000 people (~1-17% of the population) remain in conditions of chattel slavery (GSI 2015).
The vast majority of EU funding is allocated to hard border control, returns, and detention rather than civil society promotion, good governance, or rule of law as laid out in the ENP. Operation Seahorse, implemented between 2005 and 2008, provided €2.5 million in funding for joint maritime and coastal interdiction operations between the Guardia Civil (as the EU’s implementing agency) and Morocco, Mauritania, Senegal, and Cape Verde. A subsequent round of programming between 2009 and 2010 provided an additional €2.5 million for cooperation and the establishment of migration control centres on the Atlantic Coast. Most significantly, the EU provided €67.6 million in direct financing to the Moroccan Ministry of Interior between 2007 and 2010 for upgrading the border control management capacities.

Wunderlich argues that the externalities of EU policies, what he calls the “distributional effects” of diverting and trapping irregular migration flows, account for third country compliance (2012: 1424). Put simply, transit states have little choice but to accept EU funding when irregular migration flows will be trapped in or diverted to their territory. Mobility Partnerships, the arrangement on offer, operate on the “more for more” approach underpinning the ENP: more chances for funding and the eventual discussion of limited visa liberalization in exchange for more compliance on containing irregular migration flows. Third country national (TCN) readmission agreements were prerequisites for the EU to offer Mobility Partnerships.

The Spanish government acted as the primary implementing partner for bilateral relations with West African states, particularly in regards to maritime interdiction operations, the development of detention infrastructure, and border controls. Working arrangements with Spain, the Commission, and Frontex funded external border controls between Mali and Senegal. Spain has relatively well-developed bilateral migration relationships with Cape Verde, Mali, Guinea Bissau, Mauritania, and Senegal.

States in the system display similar tendencies in terms of domestic political salience for mobility agreements as the driving considerations for formal compliance. In a comparative case study between Senegal and Cape Verde, both significant players in the Western Mediterranean migration system, Reslow (2012) argues that the main cost of compliance for both was the domestic political impacts of
signing TCN agreements. Remittances from expatriates in Europe were a major component of both countries’ GDP and both wanted to leverage compliance for greater labour mobility to Europe. For both a TCN agreement would come with major domestic political costs. Neither country expected the Commission to offer full visa-free status, but signing an MP meant the potential for better access to programme funding (Reslow 2012).

For Cape Verde, the costs of signing TCN readmission agreements were outweighed by the benefits on offer in the MP, including access to resources to improve border management, the opportunity to work with the Cape Verdean diaspora, and a permanent dialogue with the EU on migration issues (Reslow & Vink 2015: 878). For Senegal, the perceived domestic costs of a TCN clause were too high to bear (Chou and Gibert 2012), and European credibility too low (Reslow 2012). Instead, Senegal opted to leverage close bilateral ties with France and Spain to extract aid concessions for migration management. In short, EU incentives with the absence of mobility rights were unable to incentivize Senegal toward compliance (Reslow & Vink 2015).

As described in the following section, states in the system comply with the EU and Member States on control-based measures for arresting irregular migration flows, though most have not signed comprehensive agreements with the EU given the absence of mobility incentives. Transit states in the Western Mediterranean system are generally focused on exit controls rather than entry controls (Düvell & Vollmer 2009: 19). Compliance in Mauritania and Senegal is primarily focused on preventing irregular exit toward Europe. In none of these cases is there any evidence of formal compliance equating to benign Europeanization.

5.3.2.4 Effects of Compensatory Measures on Irregular Migration Systems

The effects of Europeanization on the Western Mediterranean system are incredibly instructive at all levels of analysis. As described in Chapter 1, the scholarly consensus is that the tightening of immigration and asylum access to Europe in the 1990s was at least partly responsible for the development, expansion, and professionalization of irregular migration to Europe. Changes in the

74 “This paper therefore defines the cost–benefit calculation by third countries as being dependent on four factors: (i) the resonance of the EU policy with national policy objectives; (ii) the administrative capacity of the target state; (iii) the domestic costs of adopting the EU policy; and (iv) the credibility of the promises made” (Reslow 2012: 397).
Western Mediterranean system provide as a result of Schengen’s compensatory measures provides some empirical evidence for what are often anecdotal observations.

Sending countries in the Sahel and West Africa have the highest EU visa rejection rates compared to all other areas of the world. Passports are often marked with a “visa rejected” stamp, which negatively affects chances for travel to the US, Canada, or elsewhere. Frontex notes that “the prevailing profile of rejected visa application (young males) corresponds to the profile of migrants arriving in the EU through irregular channels” (2015: 6). Further, “for several West African nationalities, the ratio between illegal border-crossing at external borders of the EU and the number of EU visas issued approaches 1:1” (ibid: 7). The UNODC notes that the emergence of irregular migration from West Africa is causally related to European policies, noting that “as European countries have adopted increasingly robust measures to discourage migration other than in specific categories prescribed by law, many would-be migrants have resorted to various forms of subterfuge in order to reach Europe” (UNODC 2011: 6).

Throughout the 1990s, Spain developed increasingly sophisticated controls in the Straits of Gibraltar (known to migrants by the self-explanatory term the estrecho de muerte) to stop boat migrants from reaching the Spanish mainland (Lutterbeck 2006). Tightened maritime routes pushed flows toward overland and sea entrances to Ceuta and Melilla. In 2004 Spain and Morocco began to cooperate on joint border patrol and naval operations (backed by the SIVE surveillance system) in the Mediterranean aimed at intercepting boat migrants and returning them to Morocco to face a dubious and murky judicial system. Multilayered climb-proof fences, observation towers, and sensors ring both the enclave cities. Since 2009, Spain significantly truncated its policy of transferring asylum seekers who made it into Ceuta and Melilla to the Spanish mainland, instead sending migrants back to transit states with which it has signed readmission agreements. Some Sub-Saharan migrants remain in indefinite detention in open centres in Ceuta, since those with families are protected from deportation (Migreurop 2010: 12).

Closing the sea route and building fences had the effect of trapping thousands of migrants in Morocco, many in makeshift camps in the forests and hills around Ceuta and Melilla. As is the case with Calais in France, camps are referred to as The Jungle by their denizens. In a well-publicized 2005 incident, more than 4,250 migrants attempted to scale the fences at Ceuta using makeshift ladders and grappling hooks. At least 11 were killed by Moroccan police officers or Spanish Guardia
Civil. Most fell on the Moroccan side of the fence or were apprehended and immediately handed back to Moroccan authorities. In its less-publicized aftermath, the Moroccan authorities rounded up and dumped 1,500 people in the Moroccan desert on the Algerian border (de Haas 2006). Soon after Morocco received €400 million in EU ‘development aid’ to be spent on securitizing borders and developing law enforcement capacity (Lutterbeck 2006: 71). Following the incident the majority flows shifted to boat departures to the Spanish Canary Islands, 800km off the West Coast of Africa.

Fig. 5.5: Interceptions by Moroccan Authorities 2001 - 2007

Mauritania became the major migration hub in the system, with the port of Nouadhibou serving as the main point of departure. It had already signed a bilateral agreement with Spain in 2003 to conduct joint naval operations, including a TCN readmission clause for those interdicted at sea. In 2006 Mauritania entered into its second bilateral agreement with Spain to establish stronger border controls with Mali and Senegal, and to establish joint operations and checkpoints along its coastline. Spain funded and managed the establishment of a detention centre in a rehabilitated school house specifically for irregular migrants, referred to locally and by migrants as Guantamanito (little Guantanamo) (GDP 2010; UNODC 2011). The UNODC noted that the detention centre is “not known to have any official name or to be governed by any formal regulations” (2011: 20). Initially used to house migrants who had been returned from the Canary Islands, the centre is populated by people returned from Morocco and Spain, in addition to Sub-Saharan Africans who are merely suspected of planning to leave (Martin 2011).
The Western Mediterranean system was also the site of the first major joint Frontex operations: Joint Operation (JO) Minerva between Spain and Morocco, and JOs Hera I and II between the West African Coast and Canary Islands. Increased naval interceptions, the expansion of SIVE to the Canary Islands, and bilateral agreements between sending states and both Member States and the EU effectively closed the route by 2010. Mauritania, using EU funding, embarked on a policy of apprehensions inside the country and forced returns on the borders with Senegal and Mali (Frontex 2009).

Transit migration in the Western Mediterranean peaked between 2002 and 2004. In 2005 Algeria began strengthening controls on borders with Mali and Niger, expelling irregular migrants back over the border. Migrants often choose the “second best” option of settling when hardened borders and externalized migration governance significantly change decision-making logics. The most fundamental effect of Europeanization and European controls has been to push the majority of flows in the Western Mediterranean route to the Central Mediterranean system, predominantly through Libya to Italy.

5.3.3 Evidence for Malignant Europeanization

There is strong evidence for Malignant Europeanization in the Western Mediterranean across most metrics. The system is characterized by significantly more severe insecurity for migrants than in the CEE system. Authoritarian states display a higher threshold for securitized control measures and violations of international protection norms. Migrant pushbacks, detentions, and abuse by security services are endemic. Unlike in the CEE, there is little evidence for the diffusion of international norms or compliance with asylum procedures to temper these trends. The development of civil society to advocate for migrant rights is limited by the domestic character of states.

Changes in border controls are the consequence of bilateral cooperation with the EU and Member States. These have the observable effect of pushing migrants to longer, more dangerous routes. EU-driven control measures have created stronger incentives for human trafficking and smuggling, though there is less evidence for highly-organized transnational criminal networks. Instead, facilitators tend to work in a kind of relay over various geographic areas. Complex and dangerous
overland routes, particularly through the Sahara, require the use of facilitators, and overlap with smuggling routes for weapons, drugs, and contraband.

Finally, Europeanized migration controls have served to trap migrant populations in erstwhile transit states. Cooperation with the EU has resulted in significant domestic political contestation and the diffusion of European securitized migration discourse. The lack of membership incentives or visa-free status for cooperation means that elite professional and political classes are some of the sole beneficiaries for mobility agreements, with low-skilled labour suffering the results of stricter migration controls at the domestic and regional level, further incentivizing irregular out-migration.

**Human Security**

The sources for this chapter contain myriad personal accounts of physical abuse. There is a growing emphasis in the literature on the psychological trauma at finding oneself trapped in transit states. My goal is not to repeat this work, but to illustrate the connection between migrants’ insecurity and Schengen’s compensatory measures. Fundamentally, most authors point to the fact that tighter domestic migration regimes in Europe and the externalization of migration governance were responsible for the development of the Western Mediterranean irregular migration system. One of the more obvious results was “stranded” (Collyer 2007; 2010) or “stuck” (Alioua 2014) migrant populations in what would have been stopover states around Europe’s peripheries. During my brief field work in Morocco in 2009, the majority of migrants talked about abuse at the hands of security services exacerbating psychological distress from the fact that they could neither move on nor return home because of the lack of funds.

While my interviews in Morocco were not systematic, every male migrant I spoke with reported physical abuse by Moroccan authorities. Many spoke of similar abuse along their journey, particularly by security officials in Algeria and smugglers along the routes. Reports of abuse at the hands of security services are as common as they are appalling. MSF reports increased instances of violence as migrant populations have become trapped in Northern Morocco, arguing that agreements with Spain and the EU resulted in “a dramatic rise in wide-scale, indiscriminate raids on sub-Saharan migrant communities” (2013: 12). Raids are characterized by beatings, robberies, and forced deportations.
Interventions by UNHCR and domestic rights groups sometimes manage to free people from custody, though those found not to have refugee status are often transported and dumped in no man’s land border areas and told not to return under threat of being shot. In October 2005 Moroccan police abandoned around 2000 migrants on desert border with Algeria (Collyer 2010). Border areas in Northern Morocco are mostly desert (with extreme temperatures throughout the day), and without shelter, food, or water sources. Once at the Algerian border migrants faced the same threats by border guards and were pushed back toward Morocco. A Migreurop report of the roundups after the Ceuta incident cites instances of up to 1500 Sub-Saharan migrants found abandoned in villages near the Algerian border without food and water. The area to which migrants were expelled on the border with Mauritania is mined, open desert (2007).

Rights groups report multiple testimonials by women and children of assault and robbery by security forces after several days’ trying to avoid inhabited areas. As is the case in the Sinai discussed in Chapter 5, instances of rape and sexual assault are appallingly high, often in the presence of spouses and children, with high rates of pregnancy. NGOs routinely report “shocking” levels of sexual violence through the migratory process, particularly once they have reached North African transit states. Between 2010 and 2012 MSF treated 697 victims of sexual violence in Morocco. As was the case in my field research in Egypt and Israel, a large proportion of women in MSF’s research reported repeated gang rapes by smugglers and criminal gangs. In Central Africa, facilitators offer women migrants discounted rates for passage in exchange for the promise of future work as prostitutes either in Libya or Europe (UNODC 2011). The result of compliance is often forced marriage and sexual violence during transit.

Trends of abuse persist across the Western Mediterranean system, particularly where European engagement is most systematic. In 2008 Amnesty International reported over 3,257 migrants being dumped over the borders with Senegal and Mali without food, water, or international protection. A 2009 joint mission of Mireurop and the Algerian group Comité contre la faim et pour le développement to Tinzaouten on the Algeria / Mali border found that compliance with EU migration agreements led to the rounding up of Sub-Saharan migrant workers at job sites and migrant homes, followed by deportation to Mali regardless of nationality (Migreurop 2010: 30-34). As is the case on the Moroccan / Algerian border, migrants are dumped in binational border towns and pushed toward Mali under the threat of force.
Shifting routes to paths of less geographical and political resistance results in demonstrably more human security risks and far higher fatality rates. It is impossible to know how many migrants die while transiting the Sahara. The majority of migrants, however, report fatalities among their cohorts and witnessing dead bodies along the route (Horwood 2014; Reitano & Tinti 2015). The IOM estimates that several thousand people have died in the Sahara since 2000 (2014). Migrants interviewed in Morocco and Egypt often reported that entire truckloads of fellow migrants did not arrive at waypoints or destinations.

The majority of attempts to quantify migrant deaths admit to underestimation given the lack of verifiable data, with some suggesting that the true figure is two to three times higher than most estimates (Weber & Pickering 2011). With the understanding that data is incomplete, a number of different organizations have been tracking migrant deaths at Europe’s frontiers. The Migrants’ Files, which ran from 2014 to 2016, was a project of a number of European journalists and data scientists using open source media and other available databases to compile a dataset of migrant fatalities on Europe’s borders from 2000 to 2016.75 The project cites over 30,000 fatalities or missing migrants over that period. The Italian journalism blog “Fortress Europe” ran a similar analysis of media attention, including shipwrecks and bodies lost at sea, and arrived at a total of 27,3982 deaths reported from 1988 to 2014.76 The Human Costs of Border Control project at the Vrije University in Amsterdam produced a “Border Deaths” database from official, state-produced evidence on fatalities from authorities in Italy, Malta, Spain, Gibraltar, and Greece from 1990 to 2013.77 Officially confirmed deaths stand at just under 3200 for the 23 year period, though this excludes those reported missing or drowned. The Mauritanian Red Crescent society claimed that 1200 to 1300 migrants had drowned trying to cross to the Canary Islands from 2005 to 2006 alone (UNODC 2006: 14).

**Transnational Crime**

To reiterate, claims by Europol and other law enforcement agencies that the majority of irregular migration is “facilitated” obscure more than they reveal. All international travel is facilitated. The illicit nature of irregular migration derives from its legal status, not the fact of mobility. Smuggling is not a cause of irregular migration, but a result of the market incentives of prohibition.

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75 http://www.themigrantsfiles.com/
76 http://fortresseurope.blogspot.ca/p/la-strage.html
77 http://www.borderdeaths.org/
As in the case with the CEE states, closed migration channels to Europe and increasingly robust external controls resulted in increasing professionalization, though evidence points to linked local networks and less evidence of well-organized transnational networks. De Haas (2007) is particularly adamant that there is little evidence for transnational organizations in the Western Mediterranean system given the staged journeys and payment structures of migrants he interviewed. West African smuggling rings tend to be loosely organized and impermanent at the operational level (UNODC 2011). Evidence points to small-scale, geographically isolated groups helping migrants on specific legs of the journey, particularly crossing borders, deserts, and seas, and in finding safe houses in transit countries. In addition, Collyer’s (2007; 2010) field work with migrants found that none had paid a singular “all-inclusive” fee and instead paid different facilitators along the route.

However, smuggling rings were characterized by increasing professionalization as migration legislation and border controls tightened in response to EU overtures. The UNODC notes that “More rigorous policies in destination countries have had unintended consequences, as they have made the market for smuggling of persons more lucrative, thereby attracting the attention of existing criminal groups,” as well as creating “new networks between existing smuggling rings and transnational criminal organization” (2011: 2). As in Central and Eastern Europe, groups in the Sahel with long-established smuggling networks in other commodities responded to market incentives for human smuggling. Demand side factors meant that human smuggling, though not a lucrative industry in previous decades, came to comprise a far more significant proportion of smuggling (Reitano & Tinti 2015: 11). Drivers working in licit transport moved to migrant smuggling once market conditions provided opportunities for significantly higher profits from illicit activity.

Weak state control in border regions coupled with a long history of transboundary mobility and trade make these areas particularly fertile ground for criminality. The border areas between Oujda on the Moroccan side and Maghnia on the Algerian are generally lawless. Criminal networks specifically use the area to prey on migrants. The same is true on Algeria’s Southern borders. There exist strong connections between groups involved in human and narcotics and weapons smuggling across the Sahara and into Europe. The so-called “Highway 10” from South America to the West African coast is the point of arrival for a significant proportion of the cocaine consumed in Europe, which travels along the same routes in Africa (Mazzitelli 2011).
Human trafficking from West Africa into Europe is common, though the market incentives for trafficking are generally driven by consumption (Mazzitelli 2007: 1079). The Western Mediterranean system is characterized by significant amounts of trafficking for forced labour and prostitution, particularly from Central Africa to North Africa and Europe. Transnational trafficking networks extend from Nigeria into Europe (UNODC 2009; Shelley 2010).

**Corruption**

Corruption in the Western Mediterranean system is endemic, though varies across states. Reports from rights groups and scholarly research paint a picture of systematic robberies, abuse, extortion, and sexual assault by uniformed security services. Likewise, there is strong evidence in some states that security personnel play an active role in smuggling and trafficking. Predictably, UNODC, IOM, and EU reports pay less than sustained attention to the specifics of security sector or government corruption given their need to maintain access and operational capacity.

Senior UNODC personnel I interviewed in Vienna in 2013 who worked in corruption investigations claimed the agency did not make inquiries into security sector corruption in regards to irregular migration, and that there was no available data on the issue. However, UNODC publications highlight the prevalent role of security sector involvement in smuggling in West Africa has demonstrably contributed to the erosion of state legitimacy, and that weak state apparatuses mean immigration officials are open to corruption and bribery (2013: 13). Anti-corruption campaigns result in rather rapid changes in smugglers’ modus operandi and simply translate increased risk into higher costs for migrants (de Haas 2007).

Corruption occurs at different levels depending on the stage of the journey. Migrants I interviewed during my informal fieldwork in Morocco in 2009 were roughly divided between those who reported not interacting with security officials at borders and those who reported routine payments at borders and checkpoints. NGO workers in Tangier reported that the controls in Ceuta and Melilla and in the Straits of Gibraltar meant that successful crossing necessarily implied the cooperation of security services. Migrants who had crossed into Spain reported being inspected by Moroccan Navy patrols who first ensured that the smugglers was not attempting to send more boats or different cargo than had been previously negotiated (UNODC 2011). Migrants also reported being transported by ships
owned by the Moroccan navy. Despite all the anecdotal evidence it is not possible to ascertain the proportion of out-migration which relies on open collusion of security services.

Migrants in Tangier who had been stranded for several months complained that one of the reasons behind their predicament was the lack of the funds to pay police to allow them to leave. Rights groups have received testimonials from migrants who reported Moroccan coast guards using spears to pierce inflatable boats at sea, and would-be rescue operations where security personnel seem to have purposefully capsized migrant boats and cut rescue lines causing migrants to drown in cases where the navy had not been paid (GADEM 2010: 24; HRW 2014).

After the 2005 Ceuta incident the Moroccan Ministry of Interior used EU finds to recruit a supplementary 9000 personnel into the security services for the explicit purpose of border control (Lahlou 2008). From my brief field work in Morocco several people from NGOs reported that the increased number of police translated directly to more bribes for each migrant. In Mali, officials routinely furnish irregular migrants with fraudulent passports, and open bribery is a routine part of smuggling operations (UNODC 2009; 2010). Migrants in detention in Mauritania reported systemic robberies by security services, being confined to overcrowded cells, and having identity documents destroyed before being dumped over borders (Amnesty International 2008).

The UN and ECOWAS found that “rogue” elements of the Gambian security services were involved in a well-organized scheme to transport migrants to Europe (UNODC 2011: 34). More systematic evidence from East Africa and the Central Mediterranean routes suggest there is nothing extraordinary about security sector involvement in smuggling and trafficking. As UN personnel noted in an interview: “We don’t have data, but there’s simply too much money involved for state officials not to be involved.”

Likewise, high level civil servants at the Commission recounted how security sector reform was at least a decade-long process, and couldn’t hope to overcome the structural incentives for collusion with smugglers.

**Emboldened MNAs**

From a traditional IR perspective, large swaths of the Western Mediterranean system are zones of weak governance and state control (e.g., Raleigh & Dowd 2013). As discussed in detail in the Central
Mediterranean case, militant groups in the Sahel act as smugglers and levy taxes on groups transporting migrants through their territory. The illicit trade in minerals, precious gems, timber, and agricultural products are a central funding source for MNAs. There is some evidence of cross-over between smuggling groups and militant organizations, particularly in regards to counterfeit goods, narcotics, and weapons (e.g. Burbank 2010). However, there is only circumstantial evidence to support the claim that MNAs in the West African irregular migration system are emboldened by smuggling or trafficking activities (le Sage 2010; UNODC 2010).

**Domestic Political Contestation**

There is significant evidence for domestic political contestation resulting from Schengen’s compensatory measures, particularly in Morocco where the majority of research has been conducted. As opposed to accession states in the East, governments in the South framed European overtures in terms of the colonial history. Morocco’s King Mohammed VII argued that “[Europeans] look for allies more to the East, because there people are white [...] because it’s one big family. And they look across the Mediterranean and say ‘Ah yes, it’s true, there are those poor little people that we colonized’” (quoted in Hill 2002: 104). In 2013 the Moroccan Minister of Foreign Affairs (presumably with a comprehensive understanding of Morocco / EU bilateral negotiations) was quoted as saying that Morocco refused “play the role of Europe’s gendarme” (quoted in HRW 2014: 56). The pronouncement was intended for domestic consumption. Politicians in transit and destination states mobilized perceived migration crises and international migration relations for domestic political gains, a trend explored in depth in the case studies to follow.

At the official level, the Governor of Eastern Moroccan Prefect was openly hostile, claiming that the tightened border controls would render Morocco a “rubbish bin of Europe” (Le Figaro 2005, cited in Wunderlich 2012: 1423). Natter (2014) argues that one of the main effects of European policies has been the top-down politicization of the issue of irregular migration in transit countries: an observable Europeanization of the discursive and legal framing of irregular migration as a social and security threat to transit states, though of course the discourse traded on general negative sentiments toward Sub-Saharan Africans.

Moroccan media mirror the type of scapegoating and threat construction observed throughout Europe in the 1990s. For example, in November 2012 the Moroccan weekly Maroc Hebdo ran a feature story
about the “Black Danger” (de Haas 2014). Sub Saharan African migrants were painted in North African media as Trojan Horses of all the ills of the Global South: Islamic radicalism, disease carriers, rapists, drug users, prostitutes, and danger to national economies (see de Haas 2014; Lahlou 2008). A 2014 report from the Moroccan NGO GADEM includes a detailed analysis of Moroccan media representations of migrants (GADEM 2014: 26-39).

In West Africa, the EU used bilateral relations over development funds and fisheries to leverage transit state compliance over irregular migration, with domestic political costs. As the advocacy organization Migreurop noted around Spanish/Mauritanian relations,

The need for [an irregular migration] strategy became a public issue in 2006 following a Spanish media frenzy around a sudden increase in the number of sub-Saharan migrants arriving in the Canary Islands from Senegal and Mauritania, and the strategy was developed in 2010. Although effectively a non-issue in Mauritania before that time, the fact that irregular migration constituted a problem for the EU, and for Spain in particular, meant that it was soon to be treated as a problem in Mauritanian discourse and policy as well.79

Greater xenophobia toward sub-Saharan migrants is somewhat mitigated by the emergence of a rights-based civil society to confront the framing. Unilateral border controls and bilateral migration relations fundamentally affected remittances, a crucial contributor to the Moroccan economy. In the late 1990s, Moroccan civil society began to draw attention to the number of Moroccan citizens dying while trying to circumvent border controls and cross the Straits of Gibraltar in small boats (Collyer 2006). The revised 2003 Moroccan migration law created the category of irregularity in Morocco. The emphasis on criminalizing and securitizing irregular migration was seen by civil society as bowing to EU pressures (de Haas 2014). The 2005 Ceuta incident emboldened a far more robust and active civil society (Natter 2014). As is the case with NGOs and civil society in CEE states, the growing number of stranded migrants and the political salience of the issue led to the emergence of civil society groups on Morocco, comprised both of migrants and Moroccan citizens (Alioua 2014: 95). NGOs began to both advocate for migrant rights and offer practical assistance to stranded refugees. In 2013 a consortium of rights groups published a scathing report of the abuse of migrants and asylum seekers, embarrassing the Moroccan state on the international stage (de Haas 2014).

Entrenched Authoritarianism and Democratic Backsliding

What Collyer (2016) refers to as the “geopolitics of regions” cuts both ways: while EU foreign policy constructs regions for its own ends, tends to flatten political variation, and simplifies the migration profile of peripheral states, transit state governments are able to leverage their roles to extract concessions from their European counterparts. According to the UNODC, “The relationship between irregular migrants, local businesspeople and officialdom has become so entrenched as to take on a strategic dimension” (2011: 51). Across the region governments have used Schengen’s compensatory measures to leverage their geopolitical position for domestic political consolidation.

There is little evidence for European foreign policy resulting in rule of law or governance reform in the system that would amount to benign Europeanization (Cardwell 2009; Freyburg et al. 2009). Personnel from DG Home and the EEAS noted that the strong emphasis on rule of law in official discourse was simply not pressed in bilateral negotiations with states in the region. Indeed, a well-placed respondent in the Council familiar with migration-related aspects of Association Agreements argued that “lip service” and a well-worn “routine of rights talk” allowed EU personnel to “check the appropriate external relations boxes.” Instead, regimes in the region are emboldened by their roles as transit states, which offer not only greater access to funding, but an altered geostrategic relationship with the EU.

The EU and Member States have shown very little interest in ensuring compliance on any governance or rights conditionalities. In the absence of membership incentives the EU lacks any measures for binding oversight for benign Europeanization with autocratic and authoritarian regimes in the system. Freyburg finds that in the singular case of the 2003 immigration law the EU was successful in “transposing its legal provisions of democratic migration governance onto Moroccan national legislation. The formally adopted rules are, however, hitherto hardly applied in practice” (2012: 126). Wunderlich (2012) argues that the Ministry of Interior was able to use its position in the governance structure to channel funds toward the security apparatus while seemingly adopting EU

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standards. It used EU funding to strengthen border controls along the frontier with Western Sahara, where Moroccan migrants would not be affected.

European restrictions (i.e., visas, carrier sanctions, etc.) provide a reason for overland irregular travel, but “are not sufficient to explain the increased importance of fragmented forms of migration” (Collyer 2010: 276). West African regimes use migration agreements with Europe in order to leverage development funds and concessions. The domestic political salience of migration to the EU allows transit state to extract “geographical rents” from their position in the irregular migration system (Natter 2014).

**Regional Tensions**

There is a paucity of direct evidence for regional tensions in the system as a direct result of externalized irregular migration policy. The lack of evidence can be attributed to an absence of in-depth field research, and the fact that security tensions in the region are significantly overdetermined. The Algerian / Moroccan border has been officially closed since 1994 when Algerian citizens committed terrorist attacks. Moroccan authorities expelled Algerians and the border regions were already militarized as a result. Militarized borders have provided an easy space for dumping migrants. In the aftermath of the Ceuta incident, dozens, and perhaps hundreds of migrants were rounded up around Morocco’s major cities and left near the Algerian border (GADEM 2010). The Moroccan Interior Ministry used a €27 million increase in funding to implement stronger border controls in the South and strengthen control over the Western Sahara (Wunderlich 2012: 1425).

Further south, the ECOWAS free mobility framework and existing cooperation on border controls have tended to dominate both scholarship and official discourse on mobility in the system. Regional frameworks for dialogue and European engagement also dominate EU communications on the issue. In short, more in-depth fieldwork is required. Strong evidence for regional tensions from the CEE case, coupled with field work from the Central Mediterranean and Western Balkan cases make it seem unlikely that the West African states in the system are immune to the general trend, though direct evidence is lacking.

**Norm Degeneration**

There is significant evidence for international norm degeneration as a result of Europe’s irregular migration governance. Findings comport with the general assumptions of activists and scholars that
exporting control-oriented policies to illiberal states undermines the rights of migrants, but more fundamentally, the lack of oversight undermines international norms of burden-sharing, refugee protection, and non-réfoulement.

In 2013 I conducted several interviews with respondents from the European Parliament. Interviews focused primarily on the impacts of their work on the functioning of the Commission’s external relations. In response to questions about externalized migration controls in the Western Mediterranean, one respondent explained:

The image of Europe exporting human rights abuses to African transit states is entirely correct. But I don’t believe anyone in the Commission actively sits down and says to their counterparts ‘Ok, we’ll give you some money, you abuse migrants.’ Instead, they refer to their role in terms of sovereignty and equal partnerships. They don’t want to ask tough questions [and] seem to convince themselves that EU policies have no effect on the rights of migrants. But we know for a fact that they read [human rights and academic] reports. To say transit states are sovereign and can do what they like is totally antithetical to the whole ENP and Europe’s international identity. It’s either Europe promotes human rights or it doesn’t. We can’t be both.81

As in the case of CEE states, European influence emerged in an area of weak overall governance, and so degeneration occurs in light of the stated goals of the ENP to foster rights and good governance around its peripheries.

Morocco’s 2003 Migration Act focused primarily on illegal migration, border control, and security. While the law came on the heels of domestic terror incidents, it emulated European discourse around “combating” irregular migration. The diffusion of securitized migration governance was not balanced by other pillars around development of regularized migration schemes. While civil society had been organizing around the issue of migrant rights since the mid-1990s, notions of irregularity and illegality only entered Moroccan political discourse in 2003 (Lahlou 2008: 12). According to Wunderlich: “King Mohammed approved engaging with irregular migration in 2003 based on internal public indignation, EU pressure and reconciliatory steps towards Spain paired with the signature of Spanish investment deals worth €390 million” (2010: 263). The same is true for new laws in Mauritania and Mali, which essentially copied European laws around irregularity and border controls.

Hardened border controls and summary returns undermine the norm of access to territory and the differentiation of asylum seekers as a special category of migrant (see Skran 1995; Loescher et al. 2008). Readmission agreements with Mali, Mauritania, and Senegal all take place among widespread and well-publicized abrogation of international norms of protection. In 2008 the UN Working Group on Arbitrary Detention noted that Mauritanian immigration law was being revised to reflect the existing practice of detaining foreigners attempting to leave for Europe without legal grounds. The Association mauritienne des droits de l’homme reported that after the flows to the Canary Islands began to taper off security officials continued to arrest foreigners in an attempt to keep numbers high (cited in Migreurop 2010: 23-24). Reported monthly averages of arrests have remained constant despite the fact that arrivals to the Canary Islands dropped by over 70% after 2008.

Collusion between the Guardia Civil and Moroccan authorities around summary expulsions fundamentally undermine the norm of non-réfoulement. Three migrants I spoke with near Nador in 2009 recounted stories of people who had made it over the fences only to be pushed out of “side gates” to the waiting Moroccan police. When not expelled to border areas migrants often returned to camps with major injuries. Migrants I spoke with in 2009 offered stories of severely beaten hands, feet, and major joints (knees, elbows, and shoulders) specifically targeted during raids so that they would not be able to climb fences. Human Rights Watch (2014) and MSF (2013) have both related interviews with migrants where the use of force by Moroccan authorities was vastly disproportionate to the goal of protecting border areas, and amounted to both collective punishment and deterrence in the absence of assessing rights to asylum. Cumulatively, forced returns into transit states and third country readmission agreements with other states in the system amount to serious derogations from the peremptory norm of non-réfoulement and individual rights to asylum processing.

There have been some signs of liberal norm diffusion. In 2013, international shaming by Moroccan rights NGOs, pressure from civil society, and the newly signed Mobility Partnership led to a surprise announcement by King Mohammed VI to reform national migration policy by providing paths to regularization for irregular migrants. However, personnel at rights NGOs worry that the law is yet another instance of offering the EU a plausible account for readmission and containment (Norman 2016). These more recent findings support research on popular discourse around the state bowing to European pressure for little return (Lahlou 2008; Wunderlich 2010). While the EU focuses on the reciprocal nature of mobility agreements, visa facilitation tends only to affect a small subsection of the elite. Indeed, until the Arab Spring visa facilitation was never offered to North African countries.
In any event the development of civil society advocating for the rights of migrants was not the result of deliberate EU policies relating to third countries, but instead an unintended consequence of the externalities of Schengen’s compensatory measures.

Despite the official discourse, respondents from across the EU bureaucracy cautioned about the potential for replicating the ostensibly positive gains on mobility partnerships and civil society development in Morocco. A number pointed out that Morocco and the EU had a unique relationship, specifically conditioned by Morocco’s geographical position, and relatively stable and predictable domestic politics. A respondent from DG NEAR put the situation quite succinctly: “Everyone wants to point to Morocco as the bon élève, but that agreement took decades of policy dialogue with a stable monarchy and basically no civil society [in the first half of the decade]. How are we supposed to export a model [of human rights and international protection] to a region full of failing states?”

Their main point in the remainder of the interview was that the focus on good governance and rights protections would almost necessarily be subordinated to control measures in the aftermath of the Arab Spring.

Some EU respondents did not demur about the control-oriented focus of engagement with third countries in the system. A number rejected the notion that interventions on the Western Mediterranean system would result in trapped migrants or more dangerous routes. “It’s not inevitable for people to leave in the first place. If we make the route more challenging then the flows become less mixed.” Interviewed in the midst of the 2015 migration crisis, a high-level respondent from the Commission working on borders security argued that: “Protection of asylum seekers has been put on such a high pedestal, as an absolute right over and above sovereignty, so that states can’t even stop people when they’re capacity has been overwhelmed. There’s a flaw in the liberal logic. Everyone here realizes that what’s left is getting partner states to do it […] Morocco is the best case scenario from a rights perspective, but that does not mean we cannot duplicate the results with Southern partners.”

Fundamentally, changes in domestic laws and formal rules do not imply norm diffusion around rights protection or good governance. Much to the contrary, the observable behaviour and policies in third countries run counter to the norms enshrined in both the ENP and the International Refugee Regime.

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5.4 Cross-Case Comparisons

The goal of these historical cases has been to draw out general trends around malignant Europeanization, particularly the different effects of different incentive structures and domestic politics, and to set the stage for the subsequent in-depth case studies based on primary field research which more carefully test causal mechanisms between Europe’s regional integration and malignant Europeanization. To reiterate, I am interested in the process of Europeanization over time as a result of the development of the European project. Both the CEE and Western Mediterranean regions were early foci for Schengen’s compensatory measures. External actions, both enlargement in the East and third country engagement in the South, developed apace with Europe’s open border and free mobility regime. The cases offered variation on both independent and dependent variables.

In both cases there is evidence for most forms of malignant Europeanization as a direct result of Schengen’s compensatory measures and their effects on irregular migration systems. However, important differences emerge. The most important intervening variables are external incentives and the domestic character of peripheral transit states. In both regions, stricter immigration legislation in Europe was correlated with the emergence of irregular migration systems. Fundamentally, “policies to ‘combat’ illegal migration not only criminalize migration but are also bound to fail because they are among the very causes of the phenomenon they pretend to combat” (IOM & de Haas 2007: 50). In CEE states this meant the development of more sophisticated and organized transnational criminal networks, including more document fraud and high-level corruption. Asylum applications were used as a mode of entry and followed by subsequent onward movement within the Schengen area. In the Western Mediterranean, flows followed paths of least geographical resistance. Stricter controls in Spain and Morocco pushed flows to more dangerous routes, but physical geography and transit state compliance allowed the EU to close the route in short order.

In the East, the interim period between the end of the Cold War and accession gave rise to more smuggling, trafficking, and corruption. However, regional integration meant reforms in governance and rights legislation, and ostensibly conforming to the Copenhagen criteria as a prerequisite for accession. The EU had direct oversight, could ensure compliance, and the absence of both asylum legislation and border controls allowed the EU to directly transpose the EU acquis across the region. The rapid emergence of a robust civil society as supported by the EU, Member States, IGOs, and NGOs meant early mobilization around migrant rights.
The picture is much starker in the Western Mediterranean system. Effective externalization is limited to compliance on controls, readmissions, and a JHA policy frame without commensurate evidence for benign Europeanization. In the singular case of Morocco, changes in domestic law have included rights provisions for irregular migrants. Legislation in Mauritania, Mali, and Senegal ostensibly include rights provisions, though evidence suggests a singular focus on securitized controls. Formal rule adoption does not equate to liberal norm diffusion or benign Europeanization. Compliance almost necessarily implies more significant insecurity for migrants and undermining international norms of protection and asylum provision.

Membership incentives and the narrative of a “return to Europe” at the end of the Cold War meant that domestic political contestation over serving as Schengen’s external frontier and asylum buffer zone were offset for at least a decade. Aggregate economic development, political freedom, and mobility rights ensured broad support for externalized controls. In the Western Mediterranean, evidence suggests that civil society, when mobilized, was resoundingly unsympathetic with the domestic impacts of acting as Europe’s migration buffer zone and most definitely not the result of EU influence as suggested in Commission communications.

Member States and the EU exercise insufficient leverage to fundamentally alter domestic political structures or institutions in non-candidate third countries. According to Reslow’s typology, cost-benefit calculations of compliance with externalized controls is based on: “(i) the resonance of the EU policy with national policy objectives; (ii) the administrative capacity of the target state; (iii) the domestic costs of adopting the EU policy; and (iv) the credibility of the promises made” (2012: 397). Authoritarian regimes complied with Europeanization in return for financial incentives and the potential for future dialogue.

The literature on the weak impacts of the EU’s external relations glosses over the structural connection between the development of the European project and malignant Europeanization in transit states. The observed changes are not merely the result of short-sighted policies, but are fundamentally connected to the development of Schengen’s compensatory measures.

The comparative cases offer important insights for the subsequent chapters. Most broadly, Schengen’s compensatory measures have been shown to significantly affect the development, scope, direction, and characteristics of irregular migration systems. As is the case with the contemporary
migration crisis in the Western Balkans, accession criteria and oversight in the time of mass migration offers Brussels leverage over candidate state policies. However, once migrants and asylum seekers enter the EU there is little Member States can do, beyond detention coupled with readmission, to limit onward movement. As will be explored in the Western Balkan states, Schengen’s “internal” compensatory measures, particularly the Common European Asylum System, offer incentives for Member States to defect from solidarity and burden sharing mechanisms. Brussels’ lack of leverage over Member States supports general findings from the Europeanization literature. What remains is further reliance on non-candidate, authoritarian transit states. The Western Mediterranean case illustrates that while flows shift as a result of Schengen’s compensatory measures, they can also dead-end and migrants can become trapped in what would have been a transit state. Once a route dead-ends flows respond shifting to other migration systems, though not before accruing significant impacts on migrant security, domestic politics, and regional tensions: an important lesson for the Central Mediterranean case, particularly for observations around the emergence and dynamics of the Sinai route into Israel.
Chapter 6 The Central Mediterranean System: Authoritarian States and the Absence of Normative Power

6.1 Introduction

This chapter examines the effects of Schengen’s compensatory measures on the Central Mediterranean irregular migration system. I pay special attention to efforts to curtail sea crossings from Libya to Italy and the knock-on effects in the system through changing routes and trapped migrants. Findings rely on original data from fieldwork in Egypt, Israel, and Europe. Most importantly, I show that the closure of the Central Mediterranean route through bilateral deals between Italy and Libya, supported by the European Commission, was a direct causal factor in the emergence of the Sinai / Israel route from 2007 to 2013. The effects of the deal reverberated through the system. Findings in this chapter represent the worst case outcomes of my project.

I argue that the discreet causal relationship between the Libya deal and the emergence of the Sinai route are diagnostic evidence of my claim that Schengen’s compensatory measures fundamentally alter the scope, nature, and routes in irregular migration systems. The absence of membership incentives, binding conditionality, or oversight mechanisms in authoritarian third countries meant that the negative security consequences of Schengen’s compensatory measures were not tempered by increased rights, governance, or protection standards. Europe’s relations with states in the system are dominated by irregular migration governance. Europeanization in the system is fundamentally malignant.

The chapter proceeds in three parts. The first, short section details my data and fieldwork. I visited Egypt and Israel over the course of two years, from 2011 to 2013, with two visits to Europe, including Brussels, Vienna, and Warsaw to interview personnel from the throughout the EU, UN, and IGOs.

The second section describes the development of the Central Mediterranean irregular migration system, comprised of sending, destination, and transit states in East, Central, and North Africa. Protracted refugee situations, the lack of protection in UNHCR camps in East Africa, and the absence of durable solutions mean that refugees are both susceptible to trafficking and incentivized toward irregular secondary movement. The system is characterized by complex mixed flows.
As in the Western Mediterranean and Central and Eastern European systems, most states are simultaneously sending, transit, and destination states. European policies and programming, however, are dominated by security and control measures, and tend to focus on an exclusive framing of transit states, with attendant policy focus on halting irregular migration flows. Domestic actors have proven adept at capitalizing on European priorities in order to leverage concessions. I conclude the section by discussing European policies, compliance and Europeanization in transit states, and changes in the system as a result of European interventions.

The third section details my findings around Malignant Europeanization. The Central Mediterranean is characterized by the worst case outcomes in the study. To summarize, European policies diverted flows to weaker states with lower protection standards, outsourced human rights abuses to authoritarian states, supported and rehabilitated authoritarian regimes, emboldened militarized non-state actors, resulted in domestic political contestation, helped create market conditions for truly transnational criminal networks, and worsened already endemic corruption of security services and government officials. Pushing flows to and trapping migrants in states with lower protection standards resulted in clear norm degeneration through systematic practices amounting to réfoulement, non-differentiation between migrants and refugees, declining refugee protection, and indefinite and unlawful detention.

Human security for migrants in the system is particularly dire, and the chapter includes graphic descriptions of abuse and predation. I forgo a discussion of deaths by drowning in the Mediterranean since these are already widely studied and the focus of significant media attention. The case represents the clearest examples of emboldened Militarized Non-State Actors (MNAs) throughout Egypt, Libya, and Sudan, as well as increased transnational crime, particularly in Sudan, Libya, and Egypt, where trafficking business models relied on global extortion networks with agents throughout East Africa, North Africa, Europe, and North America.

The severity of the findings are partly the result of intervening variables including regime type, domestic xenophobic sentiment, weak state control over border areas, and endemic corruption. These factors mean that compliance is almost entirely limited to hard migration controls. However, endemic corruption and poverty mean that the efficacy of hard controls is often undermined by market incentives for continued smuggling and trafficking. This latter observation is significant from a policy perspective given the renewed focus on the Central Mediterranean route, the precedent of the
2015 EU / Turkey deal, and scaled back programming for governance, rights, and civil society promotion in the revised European Neighbourhood Policy (ENP). EU and Member State documents often gloss over the scale of abuse and the collusion of governments and instead place culpability on criminal smuggling networks.

While problematic from an ethical perspective and for the notion of Europe as a “transformative power”, evidence also suggests that strong authoritarian leaders and strong states with an exclusive ethno-nationalist identity are capable of immediately affecting irregular migration systems by withholding asylum, detaining and abusing migrants, and building militarized border controls in the absence of rights concerns. These findings also have implications for the subsequent case study on the Eastern Mediterranean / Western Balkan irregular migration system.

6.2 Methods and Data

This chapter relies primarily on original data, which is corroborated by reports from reputable international rights groups. Overall figures on flows into Europe and over the Israeli border in particular rely on Frontex, ICMPD, and Israeli government statistics. Original findings are based on three rounds of fieldwork in Egypt and Israel spanning 2011 to 2013. I conducted one on one interviews with a total of 95 migrants and asylum seekers, and 37 elite / expert respondents.

I visited Israel for a total of eleven months from 2011 to 2012 where I was hosted at the Department of International Relations at Hebrew University in Jerusalem. In Israel I interviewed 53 migrants, predominantly from East Africa. Interviews took place in various settings, including public parks, cafes, and private apartments. Respondents were recruited first through introductions from NGOs working directly with asylum seekers, and then using snowballing techniques via text messages and personal introductions. I sat in on intake interviews at the Physicians for Human Rights clinic in Tel Aviv. As described in the case study, the Sinai route was characterized by uniquely brutal and systematic forms of abuse. Most patients had experienced some form of torture or sexual assault. Physicians for Human Rights also provided me with data from questionnaires, which included both countries of origin and routes, as well as instances of abuse at the hands of both traffickers and border police. Finally, I was afforded the opportunity to sit in on the “Sinai Forum”, a monthly meeting of relevant IGOS, NGOs, and the US State Department to discuss the Sinai route.
Egypt was a significantly more challenging research environment given that field work took place during Mohammed Morsi’s tenure and ended around the July 30th military coup of 2013. I was hosted by the Centre for Migration and Refugee Studies at the American University of Cairo’s Tahrir campus. I conducted 42 interviews with migrants in Cairo and Alexandria, predominantly in private dwellings. The situation for asylum seekers and migrants is significantly more precarious and dangerous in Egypt, and so establishing networks was a longer procedure. Contacts with migrant communities was first established through NGOs and then through subsequent introductions and snowballing. Respondents were predominantly from Eritrea and Sudan. Near the end of my time in Egypt I spoke with people from Syria and Gaza, who were in Egypt while seeking either international resettlement or onward irregular movement by boat from either Egypt or Libya. Given the vulnerability of migrants in Egypt and the worsened repression I have elected to neither identify neighbourhoods or NGOs and community organizations which participated in research.

In all cases I spoke with asylum seekers and migrants using semi-structured interviews. The goal of interviews was to understand decision-making around route choices, experiences during transit, interactions with state authorities, security services, and smugglers or traffickers, and goals for onward movement. Later rounds of interviews included questions on specific anecdotes in order to substantiate particularly important claims for the research. For example, early respondents in Israel recounted the presence of uniformed security services and police in torture camps in the Sinai, or abduction from around UNHCR refugee camps in Eastern Sudan and trafficking to Egypt and Israel against their will. Later respondents in Cairo and Alexandria were asked to comment on these narratives. I detail overall findings from migrant interviews in the section on “Malignant Europeanization” below. I present findings as narratives, but also code some data as to experiences with abuse, observations of security sector collusion, route changes, etc.

Migrants I interviewed during the course of my fieldwork in Israel and Egypt are not a representative sample. As described in Chapter 1, the goal of fieldwork was to let migrants relate their narratives, particularly around indicators for Malignant Europeanization in order to draw out the causal relationships with changes in irregular migration systems and Schengen’s compensatory measures. Findings from interviews comport with general findings from NGO reports, journalistic accounts, and scholarly research. I explicitly refer to outlier accounts when fieldwork findings do not comport with or add new findings to the more generalized picture.
In Egypt and Israel I conducted 37 expert interviews with respondents from governments, security services, foreign embassies, international organizations including the ICRC, UNHCR, IOM, UNODC, international NGOs including Amnesty International and Human Rights Watch, and a range of domestic NGOs, service providing organizations, and grassroots activists. In Israel I was able to speak confidentially with members of the Israeli army (IDF) with experience on the border. Introductions were made through personal contacts. In Egypt security services were far more difficult to contact and interview, particularly around issues of irregular migration and trafficking. My sole contact with the security services ended in a threat of ejection from the country. Foreign researchers working with migrant communities in Egypt suffered various degrees of intimidation or harassment by Egyptian authorities, and after some success working with migrants and asylum seekers I made the decision to focus on expert-level interviews so as not to exacerbate respondents’ vulnerability.

6.3 Irregular Migration Systems & Complex Mixed Flows

6.3.1 The Development of the Central Mediterranean Irregular Migration System

The following section describes the development of the Central Mediterranean irregular migration system from the 1970s to the present. It proceeds in rather broad strokes given the complexity of the system and the period covered. The purpose is to offer the reader a general overview of the system. Salient dynamics described in this section are drawn out in detail in the remainder of the chapter.

The name “Central Mediterranean irregular migration system” belies the fact that it is comprised of a range of sending, transit, and destination states spanning East, Central, West, and North Africa. See “Fig.1: Central Mediterranean Irregular Migration Routes”. The system is comprised of flows of refugees and migrants generally moving from one fragile state to another, which attendant protection gaps and incentives for onward irregular journeys (see Hoeffler 2013).
Historically, the system encompasses several smaller circular migration systems, particularly between Sahel states and Libya. Irregular routes to Europe developed across the Sahara and Sudan on long, overland journeys, terminating in Libya and to a lesser extent Egypt. Since the late 1990s Egypt became a significant destination country for asylum seekers from East and Central Africa, many of whom sought international resettlement at the UNHCR’s Cairo offices. Though outside the scope of this study, migrants from the Horn of Africa travel across the Red Sea from Djibouti to Yemen and often further to Saudi Arabia, through the narrow Bab el-Mandeb strait.

The Egyptian Sinai has long been the site of smuggling routes for drugs, weapons, and contraband. In the late 1990s the Sinai developed as a major route for smuggling and trafficking of women, with transnational cooperation between Russian and Eastern European organized crime and indigenous Bedouin smugglers (see Calandruccio 2005). The prevalence of women from the former Soviet Union in Israel’s illicit sex industry meant that prostitutes were referred to as “Natashas”.

Throughout the early and mid 2000s Israel ranked in the third (and lowest) tier of the US State
Department’s Trafficking in Person’s reports. The development of these trafficking routes through the Sinai laid the groundwork for trafficking and smuggling models described throughout the case.

Since the late 1990s the system has been increasingly comprised of complex mixed flows, meaning that migrants, asylum seekers, and recognized refugees share the same routes, and often use the same facilitators. Both the aggregate flows and individuals’ experiences are often blurred between ‘forced’ and ‘voluntary’ (see Van Hear et al. 2009; Long & Crisp 2010). In many cases, refugees and asylum seekers undertake irregular secondary movements from camps or cities in East, Central, and North Africa given the likelihood of long and protracted displacement due to the lack of international resettlement options, the lack of legal migration channels, and significant protection gaps (see RMMS 2014). Sudan is a hub for refugees from Central African Republic, the Democratic Republic of Congo, and Eritrea who travel onward to Libya and Italy. As in the case with the Western Mediterranean route, journeys are often fragmented and can take months or years (see Collyer 2010).

With the exception of the 2015 migration crisis and the movement of almost one million people through the Western Balkan route, the Central Mediterranean irregular migration system comprises the largest flows to Europe, particularly from Libya to Italy and Malta. The top countries of origin are Eritrea, Ethiopia, Gambia, Mali, Nigeria, Senegal, and Somalia. In 2014 the highest proportion of people crossing were from Syria, though overall Eritreans comprised the highest proportion of people using the route.

The Central Mediterranean system developed over three broad periods. The late 1970s to the early 2000s saw the development of both circular and permanent migration systems across North Africa and from Sahel and Sub-Saharan states to North Africa, with little irregular migration to Europe. As in the case with the Western Mediterranean route, European public and political discourse painted Libya primarily as a transit state, characterizing all migrants in Libya as waiting for a chance to travel to Europe (de Haas 2007; Brachet 2015). The focus ignores its long-standing role as a destination state for labour migration (see Bredeloup 2010).

Labour migration to Libya and Algeria began in the 1970s after the Libyan revolution and development of the oil industry. African migration became much more significant in the 1990s with Qaddafi’s pivot from Pan-Arabism to pan-Africanism and attendant open-door migration policies for Africans (de Haas 2007; Coluccello & Massey 2007; Bredeloup & Pliez 2011). Libya relied on cheap
seasonal labour from Chad, Niger, and Sudan, which were connected to Libya in a complex, largely informal circular migration system. Regional migration systems led to a “renaissance of Saharan cities” in Libya’s south throughout the 1990s and early 2000s (Bredeloup & Pliez 2011: 4).

The situation of migrants in Libya changed along with international political tensions and the whims of the Qaddafi regime. For example, Libya conducted mass expulsions of Tunisians and Egyptians after diplomatic rows in the 1980s. Irregular migration to Libya began to grow in 1997-1998 given push factors from civil wars in the Great Lakes region (de Haas 2007). Labour competition and xenophobia meant dark-skinned African migrants were often the victims of racism and physical abuse. In the autumn of 2000 130 Sub-Saharan migrants were killed in riots in Tripoli and Zawaya, and from 2003 to 2005 Libya expelled 145,000 Sub-Saharan migrants as engagement with Europe grew.

From the 1970s onward Egypt was the largest migrant sending state in the MENA region, particularly to Gulf States and Libya to work in the oil and construction sectors (see Tsourapapas 2017). Though emigration has ebbed and flowed along with oil prices and indigenization programs in both Libya and the Gulf, remittances have remained the second largest contributor to the Egyptian economy (Rutherford 2008; de Bel-Air 2016). Throughout the 1990s and early 2000s Egypt became a hub for refugees from the Horn of Africa, particularly Eritrea and Sudan. International resettlement possibilities became a major pull factor to Cairo, with an average of 3000 international resettlements per year organized by the UNHCR office in Cairo (Grabska 2006).

The period from the early 2000s to the Arab Spring of 2011 saw increasing irregular migration at a time when the EU and Members states mainstreamed migration management into foreign policy through bilateral relations, the European Neighbourhood Policy (ENP), and various regional dialogues. North African states began to leverage their position as “transit” states for concessions from the EU and Member States, most significantly Qaddafi’s Libya. During this phase smuggling networks from the Horn of Africa and Sahel states developed more comprehensive, networked routes (UNODC 2006), and irregular migration through the Central Mediterranean route rose to the top of European popular attention and the type of boat migration from Libya to Malta and Lampedusa became the preeminent symbol of irregular migration to Europe. Human smuggling and trafficking rings across Libya’s Southern borders mixed with smuggling in drugs and contraband, with a counterflow of subsidized Libyan goods (particularly fuel, cigarettes, and foodstuffs), cash, and weapons (Shaw et al. 2014).
European policymakers and security services pay significant attention to “ungoverned” spaces in the Sahel region around Libya’s southern borders, where different groups vie for control over smuggling routes (Bredeloup 2010). Libya has 1770km of sea borders and 4350km of land borders (1800 km of which are open desert) with six states (RMMS 2014). The micro-processes of routes into Libya change as different criminal and tribal groups clash over control of smuggling operation. The most violent spaces are those where non-state actors compete with one another and the state (Raleigh & Dowd 2013). In all states in the system there is significant evidence of active state participation in smuggling and trafficking rings.

By 2003 Libya was emerging as the major transit point for boat migration to Europe. Predation, extortion, imprisonment, forced labour, and various types of physical abuse dominated migrants’ lives (see de Haas 2006; HRW 2006; 2009). Push factors and established networks meant migration to Libya persisted despite the dangers. A large proportion of Eritrean and Somali migrants are recruited directly from around UNHCR camps in Ethiopia and Sudan.

Roughly 80% of irregular migrants in Libya enter through Niger from West and Central African states. As described in the previous chapter, early European migration controls focused on Central and Eastern European states and the flows from Spain and West Africa. From 2005 to 2006 flows were diverted toward Libya (and to a lesser extent Algeria and Tunisia) following the effective closure of the Western Mediterranean and West African routes (see “Fig. X” below). The ICMPD estimated a total of 1.5 million migrants in Libya out of a total population of 6.4 million at the end of 2010 (ICMPD 2010).

The Northern portion of the border between Libya and Egypt is dominated by an almost 400km long minefield, which pushes irregular migration traffic to a narrow strip along the coastal road or southward through the desert. Smugglers interviewed in Libya “scoff at the suggestion of border guards that no one can cross the minefield. It saves time and petrol if a more direct route is taken through the fields” (Shaw et al. 2014: 35). Before 2011 those close to the Qaddafi regime were able to pass freely across the border, and after 2011 smugglers continued the trade across the border into Egypt. Likewise, security services, nomadic groups, and state officials are active in trafficking and smuggling across borders in East Africa between Ethiopia, Eritrea, Sudan, and Egypt.
There is a distinct lack of hard data about regional migration systems in the Horn of Africa and the scope of flows northward to the Mediterranean (see RMMS 2014; Collyer 2015; Martín & Bonfanti 2015). Statistics on the number of those departing from the region is extrapolated from interceptions from boat crossings from Libya and asylum claims in Egypt and Israel. The domestic situation in Eritrea, often referred to as the “North Korea of Africa,” means it has become one of the principal sending countries in the Central Mediterranean system. Roughly 1350 people, predominantly South Sudanese and Eritrean, arrive in camps in Eastern Sudan per month, though the UNHCR reports that up to 80% leave the camps within the first few months. Protection gaps and the likelihood of protracted refugee situations in camps in Ethiopia and Sudan incentivize irregular secondary movement, creating push factors for flows toward North Africa (RMMS 2013; Collyer 2015).

The civil war in Sudan meant a large increase in asylum seekers arriving in Egypt, though international resettlement quotas remained static. Asylum seekers in Egypt face legal, economic, and social isolation, with no naturalization or integration schemes in a country facing endemic poverty, demographic youth bulges, and growing inequality (Roman 2006). Facing collusion between the Khartoum government and the Mubarak regime and increasing wait times for appointments with UNHCR offices, Sudanese and other groups of asylum seekers organized sit-ins around the UNHCR
offices in 2005. In March of that year police moved to break up the protests, leaving 27 Sudanese dead and 70 injured, though rights groups put the toll much higher (see Moulin & Nyers 2007). Asylum seekers continue to face harassment and protection gaps in Egypt.

Though described in detail in the remainder of the chapter, from the early 2000s to until 2011 the EU, IGOs, and some Member States worked to rehabilitate Libya’s international standing for the expressed purpose of partnering on irregular migration controls. Italy and the Commission began openly cooperating with Libya a year before sanctions were lifted in 2004, though the Berlusconi government was communicating with Libya in the early 2000s. In 2008 Italy and Libya signed a “Treaty of Friendship, Partnership and Cooperation between the Italian Republic and Great Socialist People’s Libyan Arab Jamahiriya” (hereafter referred to as the “Friendship Pact”). The pact included cooperation over border controls, detention, and interdictions at sea. It would come to have significant implications throughout the Central Mediterranean irregular migration system.

Arrivals to Italy dropped from almost 40,000 in 2008 to 11,500 in 2009 to fewer than 4,500 in 2010. Migrants were either trapped in Libya or diverted to paths of least geographical or physical resistance. The closure of the Libya route precipitated a significant increase in flows through the Egyptian Sinai to Israel, particularly from source countries in East Africa and unsafe camps in Eastern Sudan and Ethiopia. The same Bedouin groups who had previously trafficked and smuggled women from the former Soviet Union now worked to traffic and smuggle migrants to Israel, though the route became characterized by increasingly heinous forms of torture and extortion. Almost 60,000 irregular migrants crossed the border into Israel from 2008 to 2012.

Finally, the 2011 Arab Spring – particularly the fall of Qaddafi and fracturing of the Libyan state into warring factions – meant a short-lived but drastic exodus from Libya. 600,000 Libyans and 800,000 foreigners were displaced to Tunisia, Egypt, and Sahel states. 475,000 people entered Egypt through the Salloum border crossing. IOM emergency camps received them at the border. Despite threats from Qaddafi and the alarmism in European media, fewer than 26,000 people arrived in Italy during the conflict (Brachet 2015).
The drastic drop in Central Mediterranean crossings from 2011 to 2012 can be directly attributed to conflict between competing factions over coastal territory for migrant departures. However from 2012 the flows to Europe grew exponentially. Smuggling and trafficking models from East Africa and Sahel states were well-established after a decade of activity, and were able to cope with fast-paced and drastic changes in flows in the security situation and market incentives.

Though Italy and the EU have tried a number of arrangements with different rebel groups and competing governments since 2011 the route through Libya grew exponentially after 2013. The construction of a comprehensive Israeli border fence meant the Sinai route was no longer viable; crossings dropped from 10,412 in 2012 to 118 in 2013. The lack of a coherent government in Libya to implement European policy and carry out its part in the “Friendship Pact” meant Libya was again the most-travelled route from Africa to Europe. Since 2012, criminal groups and militias have taken over many of the migrant detention camps in the south of the country, where Member States, the EU, and IOM focused their border management operations after 2015. Militias openly prey on migrants, and it is difficult to parse which militias work with any of the quasi-states vying for power, which are semi-official militias, and which are fully autonomous actors (JRS 2014). As of 2017 media, rights groups, and the IOM have brought credible and corroborated reports of open slave markets in Libya.85

Though boat departures increased from Egypt in 2014 and 2015, crackdowns along the Egyptian coast and the longer journey to Italy and Malta curtailed the flow (Malakooti 2016). Libya remains the dominant point of departure, with three main routes from West and Central Africa through Sahel states and long overland journeys from the Horn of Africa, through Sudan. The Central Mediterranean route reemerged as the deadliest and well-travelled after two years of effective closure. Through 2014 to 2016 numbers departing from Libya to Italy reached record highs.

6.3.2 EU Priorities and Programming

Relations with third countries in the Central Mediterranean system are dominated by security concerns and the issue of irregular migration. As in the case with Spain in Morocco and France in West Africa, bilateral priorities and programming are largely channeled through pre-existing colonial, political, and trade ties between Member States and third countries. Italy has therefore been the dominant actor on the European side of the relationship with Libya. Libya’s role as the ultimate departure point and its relationship with Italy lend it a privileged position in European programming.

In Libya, the EU faced a confluence of its two major strategic concerns: controlling irregular migration and securing energy supplies. In addition to its role as a final departure state, Libya was seen as a source of diversified oil and gas supplies away from Russia (Lutterbeck 2009). From the Libyan perspective, cooperating with Europe on irregular migration presented an opportunity to address “two axes in [Libyan] foreign policy: developing relations with Africa – a policy inherited from the embargo years – and discussing sanction-lifting with partners in the EU” (Bredeloup & Pliez 2011: 8). The increasingly prominent concerns over irregular migration to the European project allowed the Qaddafi regime to leverage its geopolitical position in order to rehabilitate its reputation through what the ICMPD describes as Italy’s “increased and calculated pro-Libya advocacy” throughout the late 1990s and early 2000s (2010: 26).

Italy’s pro-Libya advocacy would eventually open the door for broader European cooperation. Italy and Libya first agreed on a “Memorandum of Intent” around drug trafficking, terrorism, organized crime, and migrant smuggling in 2000. In July 2003 they agreed to exchange of information on

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migration flows “and the provision to Libya of specific equipment to control land and sea borders,” though the text of the agreement was never made public (Paoletti 2011).

Bilateral Libya / EU relationships developed in the context of the broader European agendas for the “Southern Neighbourhood”. As described in previous chapters, the ENP relied on a model of democratic peace wherein Europe’s security would be ensured by fostering a ring of stable, well-governed, economically liberal states around its peripheries. Tellingly, a 2011 EEAS strategy paper on relations with Libya opens with the commitment to “preserve common values, promote peace […] develop and consolidate democracy and the rule of law, respect for human rights and fundamental freedoms.”87 The Tampere, Laeken, and Seville Council summits all reiterated Europe’s focus on the irregular migration policy field and a securitized focus on migration controls at external borders and in third country transit states (see Haddad 2008). Governance and rights consistently took a back seat to the immediate concern of irregular migration, and both the ENP and bilateral relations focused primarily on Justice and Home Affairs (JHA) priorities. The original ENP included several areas of border and migration cooperation with Libya, and the Council stressed the need for broad cooperation throughout the early 2000s. A 2003 Commission exploratory mission found Libya “ready and willing” to cooperate on irregular migration (Bosse 2013).

Cooperating on terrorism and migration was a crucial factor in offering the Qaddafi regime the opening to re-engage with Europe. In 2003 Libya announced an end to its WMD program, and in 2004 the Council announced a “policy of engagement” with the Qaddafi regime, followed in 2005 by an “ad-hoc dialogue” with Libya on irregular migration (Hamood 2008). In 2004 the Commission sent its first technical mission to Libya for the expressed purpose of stemming irregular migration. The EU lifted sanctions in mid October 2005, and immediately allocated €2 million for securing Libya’s southern borders, with an addition €3.2 million for the Libyan coastguard (Lutterbeck 2009).

Italy continued to lead on more involved cooperation, which would come to have significant impacts on the Central Mediterranean system. On August 30th 2008 Italy and Libya signed a “Treaty of Friendship, Partnership and Cooperation between the Italian Republic and Great Socialist People’s Libyan Arab Jamahiriya”, or the “Friendship Pact” (see HRW 2009). The “Friendship Pact” focused on smuggling and terrorism, with funding commitments for border patrols split between Italy and the

Commission. Italy immediately transferred three patrol boats to the Libyan Coastguard. The “Friendship Pact” included $5 billion USD in reparations payments over 25 years, including a range of infrastructure projects, including several projects for migrant detention facilitates and surveillance systems on Libya’s Southern border. Berlusconi argued that the deal would offer Italy “more oil and fewer migrants” (Paoletti 2011: 274 quoting Il Manifesto),

Funding for irregular migration controls was not limited to bilateral deals between Italy and Libya. The Commission, Italian Interior Ministry, and UK Border Agency funded IOM deterrence campaigns and “Assisted Voluntary Return” (AVR) operations in Libya under the Program for Enhanced Transit and Irregular Migration Management (TRIM). The EC channeled €4.5 million in funding for southern border surveillance from 2008-2009. In addition, Libya has routinely been the focus of proposals to use extraterritorial processing camps to stop migrants in transit states. The UK first floated plans for “Regional Protection Zones” and “Transit Processing Centres” in Libya in 2003, borrowing directly from Australia’s so-called “Pacific Solution” of warehousing asylum seekers on offshore islands in order to deter future irregular migration (Schuster 2005). In 2004 and 2005 Germany and Italy jointly advocated for establishing asylum processing camps in Libya, which they repeated again through 2016 and 2017.

The 2011 EEAS strategy for Libya focused explicitly on cooperation on irregular migration and ensuring concessions for oil and gas exports. It explains in detail the modes through which the EC channeled funding through the Italian Ministry of the Interior, IOM, and UNHCR for migration-related programming. However significant demands made by the Qaddafi regime led to protracted negotiations.

As with the other irregular migration systems, states in the Central Mediterranean systems are part of a series of overlapping regional dialogues and consultative processes. These include the early Barcelona Process, based on unilateral European interests, migration-related aspects of the ENP, the Rabat Process, and the 5+5 Dialogue. The rather clear reality, however, is that these non-binding processes have had very little impact in terms of curbing irregular migration flows. Since 2011 EU funding for migration and asylum programming in transit states was increasingly packaged as developed aid, but focused on border management, Regional Protection Programmes, and “migration and development” issues as reflected in the Global Approach to Migration and Mobility (GAMM). Two new RPPs were launched in 2011 in the Horn of Africa (in Kenya, Yemen, and Djibouti) and
North Africa (in Egypt, Libya, and Tunisia). Rationales for RPPs follow a clear logic of containing irregular secondary movement and complex mixed flows, though are couched in terms of development and “win-win-win” solutions represented in the GAMM. However, oversight is extremely limited and the scope of flows to Europe since 2011 illustrate rather limited effectiveness.

Relations with states in the Central Mediterranean system are, more than any other system, focused on a narrow security framework. Frontex has “working arrangements” for border controls with Libya, Egypt, and Tunisia. While Frontex Liaison Officers are ostensibly only deployed to states which meet minimum protection standards, interviews at Frontex headquarters in Warsaw in 2013 revealed that operations are generally not limited by rights concerns. In 2010 the EU and African Union launched the Africa-Frontex Intelligence Community in order to share information on border controls, trafficking, and terrorism.

In November 2014 the EU and African Union launched the latest regional initiative, the “EU-Horn of Africa Migration Route Initiative”, or “Khartoum Process”. The Khartoum Process is the first regional dialogue with an exclusive focus on trafficking and smuggling and dispenses with governance and rights conditionalities. It focuses on border management, apprehension and prosecution of smugglers and traffickers, and concluding readmission agreements with partner states. It’s most significant programming focus is on “capacity building” for security apparatuses and border control. Funds are earmarked for regional initiatives to contain irregular migration in East, Central, and North Africa. These include development aid to address “root causes” of migration (García Andrade et al. 2015), and RPPs as a way of halting irregular secondary movements out of camps.

That fact that the system is comprised of authoritarian and weak states dictates a uniquely limited scope for European engagement. As exemplified in the Libyan relationship, Europe and third countries have rather narrow zones of interest convergence, which do not include rights and good governance provisions. The EU and Member States have not trumpeted the successes in Khartoum with the same gusto as in other regional dialogues. Consultations are held off the record and observers report that “for a contemporary multilateral process led by the EU and its member states, there is a remarkable lack of transparency around the Khartoum Process” (Reitano 2016:4). Aside from the initial launch in 2014 no meeting reports on the Khartoum Process have been issued by the

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88 The Khartoum Process includes the EU, Egypt, Eritrea, Ethiopia, Djibouti, Kenya, Somalia, South Sudan, Sudan, and Tunisia. Most states in the Khartoum Process joined the Africa-Frontex Intelligence Community.
EU or Member States. Khartoum represents the clearest example of the shift from a benign Europeanization approach to an exclusive focus on JHA and security priorities. €25 million of the initial €40 million budget was to be spent on “capacity building” for borders and security services (Reitano 2016: 6). German media reported on leaked documents of meetings between EU Ambassadors and the Commission which “under no circumstances” were to be reported to the public given that they focused solely on border controls and containing refugees and migrants.

Finally, the 2015 “European Agenda on Migration” was a rather hastily developed response to the migration crisis, and was yet another attempt to provide a comprehensive European response to irregular migration. Adding another layer of governance and bureaucratic haze on existing migration relations with states in the Central Mediterranean system amounted to more of the same. The Agenda played into a new narrative of breaking smuggling rings and “the human misery created by those who exploit migrants [by addressing] the root causes of migration.” It included a new four pillar approach, which essentially emulated the GAMM. RPPs were rebranded as Regional Development and Protection Programs and emphasized education programs to dissuade migration and “compacts” with transit states to increase employment and development opportunities to reduce “incentives for irregular migration.” EEAS personnel working specifically on migration relations with East and North Africa told me “it’s all just old programming money repackaged in this Trust Fund. It doesn’t give us any greater access or oversight. We don’t expect any substantial changes in the way we or the missions deal with third countries.” The most novel aspect of the Agenda was a call from the EEAS to protect the European Area of Freedom, Security, and Justice through the rather extreme measure of European military action in Libyan territorial waters to “smash” smuggling rings. The initiative failed to reach the Security Council after the ostensible Libyan government rejected the proposal. However, the Commission and EEAS planned to contribute €2.2 million to the Libyan Coastguard as a grant from the Italian Ministry of Interior under the RDPP framework.

89 My field research with Commission and EEAS personnel asked specific questions about oversight and compliance mechanisms through the Khartoum Process.
91 European Commission, May, 2015. “Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of Regions: A European Agenda on Migration”. Available at: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/background-information/docs/communication_on_the_european_agenda_on_migration_en.pdf
92 Interview with EEAS East Africa personnel. Brussels, November 2015.
The 2015 EU “Trust Fund for Africa,” announced at the Valletta Summit in Malta, brought together €1.8 billion for programming in sending and transit countries, but is “institutionally scattered” across several Directors General in the Commission and the EEAS (García Andrade et al. 2015: 51). States which would benefit from the Trust Fund largely overlap with states in the Khartoum Process. The fracturing of Libya, increased irregular migration pressures, and authoritarian retrenchment meant a reformulation of European engagement with states in the system. The bottom line of new regional dialogues, reformed ENP, and bilateral deals is that the EU and Member States have fundamentally recast ambitions in the Southern Neighbourhood. Beyond official discourse, the focus on “differentiated” relations with third countries represents an acceptance of the status quo and a focus on stability rather than reform as envisaged in the ENP. As Tömmel argues “The ambitious projects of democracy promotion were officially not abandoned but set on the back burner by both sides” of partnership agreements (2013: 23). As personnel from the EEAS told me, “the new ENP is an admission that what worked in the East won’t work in the South. It’s a different world. The only leverage we have there is money because Member States won’t agree to mobility arrangements or visas. So we have cash to try to keep people in place. The “more for more” really means more money for more migration control.”93 The EU and Member States have consistently avoided raising human rights issues in their bilateral relations with authoritarian states in the Central Mediterranean system, which narrows and simplifies the scope for analyzing compliance.

6.3.3 Compliance and Europeanization

There is little to no evidence for good governance, rights, or rule of law reforms in states in the Central Mediterranean system as a result of European regional integration. Europe does not exercise sufficient leverage to change domestic politics in the region along the European model in the absence of eventual membership or open visa regimes. Nor does it allocate sufficient programme funding to make minimal gains in terms of Europe’s ostensible “transformative power”. Using Freedom House and the US State Department’s “Trafficking in Person’s” reports, Maier and Schimmelfennig show that there is little if any change in governance and rights metrics in states in the system – in fact, most of the changes in governance and protection of victims of trafficking were either nil or negative (2007: 46-53). The post-Arab Spring era is characterized by authoritarian retrenchment and far less commitments to due process and protection of vulnerable people. However, a range of actors including migrants, smugglers, states, and IOs respond to externalities of Europe’s tightened

migration controls, which alter “domestic interest constellations” (Lavenex and Uçarer 2004: 421). Changes in behaviour are largely a response to changes in material conditions of shifting irregular migration systems, or new opportunities to leverage EU policy priorities and domestic political concerns rather than the mechanisms posited by the Europeanization literature around policy diffusion, emulation, or responses to positive incentive models. There is significant evidence for compliance from authoritarian leaders when the incentive structure is limited to funding and materiel for securitized migration controls in the absence of rights conditionalities.

My interviews with EU personnel focused specifically on governance and rights benchmarks in third countries, oversight mechanisms in regional dialogues and irregular migration deals, and awareness of the potential for malignant Europeanization metrics. No respondents from EU institutions could point to clear oversight mechanisms and none were aware of benchmarks or oversight. When asked specifically about the Khartoum Process, a policymaker from DG Home stated simply: “There are no benchmarks for any of the [benign Europeanization] indicators you’re asking about; [partnerships are] just a venue for dialogue.”94 And while RCPs are considered dialogue processes, they nonetheless bring with them European monies, training, and material support to intervene on irregular migration systems. Another high-level respondent with a long history in the Council’s High Level Working Group and GAMM told me: “We know what kind of states we’re dealing with so we have to look at what’s possible. Khartoum means Eritrea and Ethiopia are sitting at the same table. We can create a forum where this can happen. That is the extent of our influence. But dictating terms and assuming human rights will spring out of the ground is far outside of the power of the EU.”95 In addition, DG Home personnel told me:

Inside the Commission we have open discussion about difficulties in making deals with countries like Egypt or Libya or Sudan, where at the first level there’s little we can do in terms of oversight. Ministers in the Council say the same thing. The meetings are closed door because we’re not bringing it up at the table. The amount of funding is always going to be too small to actually change [Khartoum Process third country] behaviour. Think of how much the Saudis pour into Egypt in comparison to what we’re offering in EU programming with all the paperwork and meetings. It’s not comparable in terms of influence.96

High-level respondents from the Commission, when asked about the newly recast Regional Development and Protection Programmes admitted “It’s obvious that the human rights situation in the Horn of Africa will not be brought to European standards. Admittedly, yes, we would prefer that

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95 Interview with HLWG policymaker. Brussels, November 2015.
refugees be taken care of in those regions. The standards won’t be the same as in Europe.  

The notion of Europe as a normative influence on its near abroad, while attractive for International Relations scholars (e.g. Manners 2002; 2008; Whitman 2011), is not shared by EU personnel with experience in peripheral third countries. And while Europe’s limited influence is in itself troubling, the EU’s policy framing around triple wins, effective migration management, and enhanced protections exacerbates a deeply troubling situation by willfully ignoring the fact that Europe has little to no influence on endogenous dangers on routes.

A number or respondents argued that early bilateral engagement with Libya and the high degree of compliance on stemming irregular migration flows set the tone for engagement with other states in the system. As EEAS personnel argued:

It’s clear if you know the history why Khartoum came from the Italian Presidency [of the Council]. We needed a way to bring Libya and Egypt into discussions because that’s where the boats leave from. We needed to narrow the focus with sending and transit states. It’s no longer about human rights or democracy. The Italians know you need a stable partner to make control work and the Arab Spring taught us you don’t get stability from revolution.

While European official communications paint summits, action plans, and regional dialogues as evidence of influence for a seemingly out of control policy area, third countries tend to see success as instrumentalizing regional dialogues as a mode of leveraging concessions.

Libya’s success arguably acted as the exemplar for third countries. Paoletti (2011) suggests an inversion of the understanding of receiving states as “policy makers” and transit states as “policy takers” (Betts 2009), arguing that Libya leveraged its geopolitical and resource-rich position. Libya and Italy exchanged migration-related liaison officers, and Libya allowed the IOM to operate camps and “voluntary assisted return” operations from inside Libya to countries of origin (Paoletti 2011).

Throughout the 2000s Libya signed a series of bilateral migration management and readmission agreements with France, Malta, Italy, and neighbouring states. Libya had no national asylum law, and until 2009 the UNHCR’s Tripoli office was not recognized and not given access to detention centres. In 2004, immediately after the Council’s “ad hoc dialogue”, Libya amended its immigration law to criminalize the range of activities associated with irregular migration (Hamood 2008), and makes no functional differentiation between asylum seekers, victims of trafficking, or irregular

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97 Interview with Council policymaker. Brussels, November 2015.
migrants (ICMPD 2010). The Libyan “Transitional National Council” reaffirmed the “Friendship Pact” with Italy in 2011. And despite the 2012 decision of the European Court of Human Rights in the Hirsi case found the functional cooperation on pushbacks illegal, Italy continued to work with Libya on training, detention, and facilitating returns (see McNamara 2013; MPC 2013).

Since the revolution the ostensible Libyan government has focused irregular migration, border management, and detention competences in the Ministry of Defense, though in reality a range of militias and competing non-state actors control various border crossings and detention facilities. As of 2017 the IOM estimates 700,000 migrants reside in Libya. Legal compliance and Europeanization are limited by the fact that the country passed from an authoritarian dictatorship to a series of fragmented and competing parties without the ability to enact or enforce legal reforms.

While Egypt is a signatory of the 1951 Convention, the UNHCR conducts refugee status determination (RSD) in the country, and Egypt has no policies or laws for refugee integration. Migrants in Egypt face significant political and socioeconomic barriers and predation by landlords, employers, and state security. People registering for RSD in Egypt face wait times of five years or more for appointments with UNHCR, leading to significant pressures for irregular movement.

Negotiations for the original EU / Egypt Association Agreement, signed in 2004, were “painfully protracted,” mainly over issues of trade imbalances and agricultural subsidies (Balfour 2012: 37). The agreement focused primarily on trade and development, with Spain and Italy lobbying for the EU not to address the issue of torture or disappearances, which are endemic in Egypt. Likewise, the EU did not push for better protection standards for refugees and asylum seekers. The Egyptian government is more interested in discussing the rights of Egyptian nationals to work abroad given the importance of remittances and the country’s relatively stagnant labour market and absence of FDI and foreign currency reserves. Even small overtures toward rights and governance reforms were met with political rebuke (van Hüllen 2015). As Reitano and Tinti argue: “the status of refugees and migrants in Egypt remains a highly sensitive issue, in part because the Egyptian government would prefer to maintain the fiction that migrants and refugees are integrated into Egyptian society” (2015: 14). As Norman (2016) argues, Egypt engages in a deliberate policy of “strategic ambivalence” toward migrant and refugee populations.
The Association Agreement, however, pays sustained focus to border management, cooperation with Frontex on border surveillance, and increased efforts to curtail irregular migration and combat trafficking and smuggling in exchange for dialogue on visa liberalizations. The revised 2015 European neighbourhood Policy included a restarted EU-Egypt Dialogue after the military coup ousted Morsi’s Muslim Brotherhood government. The same year Egypt established a new Ministry of State for Migration Affairs and passed a new law on “Combatting Illegal Migration and Migrant Smuggling” which ostensibly brings practices in line with international protection standards, but includes harsh measures for migrant detention. From 2015 onward several thousand irregular migrants have been detained by security services, crackdowns are often violent and even deadly, and migrants are detained without due process and held in common jails (see De Bel-Air 2016).

It is unclear how many migrants and refugees reside in Egypt, and the state consistently inflates the number for international consumption. As of 2016 the UNHCR has just fewer than 200,000 registered asylum seekers in the country, including additional 125,000 Syrian refugees. The same year the Egyptian government announced the country hosted an estimated 5 million refugees, asylum seekers, and migrants, though this includes a generations-long Sudanese population. The goal of the inflated numbers is to generate increased funding from international donors, since the Egyptian state “views the presence of international migration bodies as a convenient vessel for foreign funding” (Norman 2016: 352). Cairo hosts the regional IOM headquarters and a major UNHCR office.

The two other states in the system important for the evidence for malignant Europeanization, Sudan and Israel, have far less-developed relations with Europe. Sudan’s migration profile is incredibly complex, at once a receiving and sending state of hundreds of thousands of refugees and migrants. In particular, the country hosts over 350,000 Eritrean refugees. Sudanese law does not differentiate between smuggling and trafficking, and laws around irregular migration are limited to a 1994 law on passport controls and immigration and a 2000 law on employment of foreigners. Irregular migrants are not protected under Sudanese law, and the state routinely disregards the rights of refugees and asylum seekers despite the fact that the country is a signatory to the 1951 Convention and the OAU Convention. As with Egypt, the country lacks a coherent migration policy. However, since the

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beginning of the Khartoum Process and receipt of funding from the “Trust Fund” the state has engaged in increasingly militarized border controls.

Israel was one of the architects of the 1951 Convention and the refugee regime. Until 2009 the UNHCR conducted refugee status determination (RSD), though the Israeli government took over after the emergence of the Sinai route. As described below, Israel largely refuses to conduct RSD for the majority of asylum seekers who enter its territory, and generally does not cooperate with Europe on migration-related matters.

There is also a clear diffusion of European policy framing. In several interviews respondents who were part of the original Khartoum dialogue reported that both Sudan and Ethiopia pushed narratives of being strictly transit states and as such required resources for containing migrants, particularly surveillance equipment. A respondent working in the Parliament who had conducted research on Khartoum recounted: “We had to leave Khartoum narrow just to get [third countries] to the table. A strict focus on trafficking and smuggling; no human rights or democracy […] and of course we would never talk about corruption.”101 Respondents from Frontex and the Commission reported that Egyptians arrived at early dialogue meetings with “shopping lists” of surveillance equipment.

The securitized framework offers the opportunity for transit states to leverage concessions from Europe around terrorism and the ostensible connections to trafficking. Respondents from DG NEAR’s thematic Centre for Expertise on Migration noted “the rights based approach isn’t going to happen, if we’re being realistic. [In Egypt, for example], there’s regression on the rights of citizens. They’re not interested in talking about international protection standards.”102 States in the system “adopt a strategy of formally complying with the EU’s ‘fight against illegal immigration’ […] while using the migration issue as a bargaining chip in negotiating aid, economic relations, [and] immigrant quotas” (van Liempt & Doomernik 2006: 65). Indeed, the singular focus on “breaking” smuggling models through securitized interventions offers transit states a more narrow and manageable range for compliance once the benign aspects of the ENP and regional dialogues were removed.

6.3.4 Effects of Compensatory Measures on Irregular Migration Systems

102 Telephone interview with DG NEAR personnel. December 2015.
The preceding sections have explained the development of the Central Mediterranean irregular migration system, EU programming, and third country responses in order to paint a picture of weak to non-existent evidence for benign Europeanization in the system. The burden of evidence for attributing negative security repercussions as detailed in the Malignant Europeanization framework is to draw causal relationships between Schengen’s compensatory mechanisms and changes in the irregular migration system.

My central claim is that European initiatives shut the route from Libya to Italy and pushed irregular migration flows to paths of least resistance through the Egyptian Sinai from 2007 to 2013. Existing transnational criminal networks took advantage of the changes in migration routes to undertake more significant smuggling and trafficking from Ethiopia and Eastern Sudan directly through Egypt to Israel, with significant security implications at all levels of analysis. These and subsequent developments in the Central Mediterranean system after the Arab Spring and new initiatives after the 2015 migration crisis must be understood in the broader context of displacement and mobility in Europe’s southern “neighbourhood”.

As illustrated in Chapter 4, closing the Western Mediterranean and West African irregular migration routes to mainland Spain and the Canary Islands after 2006 meant a consolidation of irregular migration flows through Libya. More broadly (and as I argue in Chapters 1 and 2), Schengen’s compensatory measures in the post Cold War era, driven by domestic political distaste for asylum in Europe, were uploaded to the international refugee regime. The singular focus on return to countries of origin as the “preferred durable solution” in the international refugee regime, coupled with the absence of legal migration channels and the likelihood of protracted refugee situations, contributed significantly to the general demand for irregular migration to Europe. As in many other prohibitive markets, smuggling and trafficking rings emerged to meet the rather lucrative demand.

The first secret agreement between Italy and Libya was signed in 2003, though was never submitted to the Italian Parliament and never made public. A 2004 “panic response” to boat arrivals to the Southern island of Lampedusa, which saw the Italian state return over 1000 migrants to Libya (Düvell & Bastian 2009: 10). Between October and March 2005 Italy returned 1,500 irregular migrants to Libya, the majority over a 6 day period from 1 to 7 October, four days before the EU sanctions were lifted. The IOM, funded by the Commission, entered into a strategic partnership with Libya immediately after the embargo. In 2006 the Commission funded the construction of detention
centres in Southern Libya, and Italy transferred six patrol boats to the Libyan coastguard for apprehensions (Lutterbeck 2008; Human Rights Watch 2009). In 2008 Italy signed a €300 million deal to transfer aircraft for border controls. Italy, the EU, and other Member States funded surveillance and controls on Libya’s southern borders, and paid for detention facilities to prevent movement of people north, which effectively began trapping migrants in Libya and incentivized non-state actors to develop more sophisticated smuggling and trafficking networks.

As described in “Fig. 5.4 Crossings – Central Mediterranean & Sinai / Israel 2006-2016,” early interventions in Libya from 2006 to 2008 coincided with a significant increase in the number of people moving through the Sinai into Israel. The number of sea crossings from Libya to Italy began to decline after the 2008 “Friendship Pact”, and dropped precipitously when Libya and Italy began direct cooperation in 2009. In May 2009 the Italian Coastguard conducted its first pushback operations, returning migrants to Libyan forces in the absence of asylum processing (HRW 2009). By 2009 sea crossings to Italy dropped to 11,000, and to a low of 4,500 in 2010. This coincided with a drastic increase through the Sinai to Israel. By 2010 the number of migrants crossing into Israel surpassed those in the Mediterranean (see “Fig.5.5: Crossings Central Med. & Sinai 2006-2012”).
At first glance the concurrent decrease in crossings into Israel between 2008 and 2009 belies my causal claim between European policy and the shift to the Sinai. However, knowledgeable respondents argued the concurrent drop in crossings was the result of clashes in the Sinai between different smuggling groups. In 2007 Israeli and Egyptian leaders Olmert and Mubarak signed a secret deal to arrest the migration flows. The outcome was a widely-reported “shoot to stop” policy by the Egyptian security forces and the emergence of an Israeli policy of “hot returns” to push migrants back over the border (see HRW 2014; van Reisen et al. 2014). In addition, some respondents argued that the concurrent drop on both routes can be attributed to a reconfiguration of smuggling routes from the Horn of Africa. Migrants interviewed in Israel reported a period of uncertainty and fear, during which they spent the majority of their time trapped in safe houses for fear of apprehension and detention by Libyan security services acting under the agreements of the Italy-Libya “Friendship Pact”.

In 2009 Italy conducted its first pushback operations in the Mediterranean, and the Qaddafi regime pursued an aggressive policy of containment and detention. In 2009 the Mediterranean route saw a 72% decrease in crossings, and an additional 59% decrease in 2010. By 2010 the migration routes from the Horn of Africa had reconfigured to move directly through the Sinai; trapped migrants were smuggled from Libya through the Sinai. While crossings into Israel dropped 43% in 2009, they increased by 177% in 2010 once the routes reconfigured. 2010-2011 showed the most significant inverse correlation in changes between the Mediterranean and Sinai routes.

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103 Interview with Western Embassy officers. Cairo, May, 2013.
At the risk of appealing to counterfactuals, Libya’s containment role and Italy’s Central Mediterranean pushbacks might have proceeded apace were it not for the events of the Arab Spring, which resulted in major changes in the system. Flows across the Mediterranean increased from 4500 in 2010 to 64,300 in 2011, though the majority of flight from Libya was toward bordering Sahel and North African states. 600,000 Libyans and 800,000 foreigners were internationally displaced from Libya in 2011 (Brachet 2015). Toppling the Qaddafi regime meant Europe had lost a strong, authoritarian partner, and the Libyan state fragmented into several governments and armed groups, which competed for control over lucrative smuggling routes. The route re-opened in 2012 and by 2014 boat crossings to Italy reached an all time high. Crossings to Israel continued to increase in 2011, though by 2012 restrictive Israeli policies, the construction of a comprehensive fence on the Sinai border, and reemergence of the Mediterranean route resulted in yet another reconfiguration in the system. Crossings into Israel dropped off to 10, 412 in 2012 to 118 in 2013 after the fence was completed, though migrants remained trapped in the Sinai.

Fieldwork with migrants in Israel and Egypt focused on migration experiences and factors influencing route choices. As described in “Fig. 5.6: Summary of Migrant Respondents, Israel & Egypt” below, 20 of 95 asylum seekers interviewed were trapped in Libya between 2008 and 2009 before moving on to Egypt and Israel. 76 of 95 reported actively changing their route choices toward Egypt and Israel as a result of the closed route to Libya. As one asylum seeker told me, “The route [across the Mediterranean] became impossible to travel, and Libya became a terrible place to wait.”104 Another explained that “we could no longer stay in Libya. Smugglers offered to bring us to Israel so we said yes. It took us six months to gather the money. We could not work because we’d be arrested if we left the house, so all the money had to come from our relatives in Europe and Canada.”105 Others recounted how information on routes and the situation in Libya was relayed to camps in Ethiopia and Sudan. Most argued their intended destination was Europe, and Israel was a second-best option.

Interviews with expert respondents corroborated migrants’ accounts of the period. Respondents from IOM argued that the Sinai route was caused by a “confluence of events. In the first place, the agreements between Italy and Libya made it a much more difficult route and a much more dangerous place to stay. On another level, the border between Israel and Egypt was the next easiest to cross,

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104 Interview with UNHCR official. Tel Aviv, July 2011.
despite the dangers of the Sinai.\textsuperscript{106} Respondents from the Commission and Council consistently referred to the “balloon analogy” for changing migration routes (i.e., that squeezing a water balloon pushes the water to a different part), though claimed to have no knowledge of the security effects in other transit states. As a respondent from DG Home explained, “We understand that stopping one route can push migrants around. But in all honesty we don’t have any sustained efforts to look at how it affects transit states. We’re interested in how it affects Europe, and that’s the simple truth.”\textsuperscript{107}

A confidential respondent from a prominent international humanitarian organization stated: “Without a doubt the closure of the route from Libya is largely responsible [for the Sinai route] post 2008. We know from our interviews in detention facilities that asylum seekers mostly don’t want to be [in Israel]. But there are also intermediate factors, [and] the most important is the networks of Rashaida and Bedouin from here to Sudan.”\textsuperscript{108} As a respondent from a rights organization in Cairo argued:

The majority of people weren’t thinking ‘I want to go to Israel’, they just want to escape. They first tend to go to UNHCR camps in Northern Ethiopia or in Eastern Sudan. But there are movement restrictions in the camps, instances of forced prostitution, violence, even forced labour. […] Eritrea has a history of sending agents into the camps to find out who’s there, to threaten their families still in Eritrea, to even kidnap people and force them to return. It’s not safe. The problem is that even if these are UNHCR camps the international community does nothing to offer protection. It’s not surprising people leave as soon as possible. So after a while people decide to leave, but first they spend a week or so on the phone calling everyone they know and being put in touch with larger networks of people to find out which routes they should take and where they should go.\textsuperscript{109}

Coupled with data on Mediterranean crossings and entries into Israel, findings from fieldwork present a clear chain of events from the emergence of the Central Mediterranean route, European interventions, and trapping migrants in Libya and pushing migration flows to paths of least geographic and political resistance through the Sinai toward Israel. These changes in the Mediterranean irregular migration system resulted in significant insecurity at all levels of analysis.

\section*{6.4 Evidence for Malignant Europeanization}

To reiterate my central claim, Schengen is a constitutive aspect of European regional integration. Open borders and free mobility rely on Schengen’s compensatory measures, which include both hardened borders and externalized migration controls, enacted through bilateral and multilateral

\begin{flushleft}
\textsuperscript{106} Interview with IOM official. Cairo, October 2013.\textsuperscript{107} Interview with DG Home personnel. Brussels. November 2015.\textsuperscript{108} Interview with IO respondent, Jerusalem, June 2011.\textsuperscript{109} Interview with NGO personnel, Cairo. April 2013.
\end{flushleft}
relations with third countries. Thus the effects of Schengen’s compensatory measures are considered instances of “Europeanization beyond Europe” (Schimmelfennig 2012). Claims for malignant Europeanization must then be shown to be the result of European relationships with third countries in or the result of changes in the system as a result of European policies.

Respondents from EU institutions were remarkably clear on the connection between Europe’s open borders and Member States priorities in the system. As a respondent from DG Home put it, deals with authoritarian states “are the costs of Schengen. It’s no secret.” Personnel from EEAS posited intra-EU relations at the driver of externalized policy:

Imagine you are the French Interior Minister and Italy is going to sign a deal with Qaddafi to stop the boats. Migrants are coming to [French] cities; they’re going right into the banlieus or up to Calais. These are areas which are, for all intents and purposes, almost not part of the French state. And for the past two years they have been in public spats about the number of North Africans coming through to France. Imagine how much easier would your life be without having to deal with [the issue of] migrants crossing the border every day from Italy. These are the calculations. Not human rights or democracy. Not even development. If you are a Member State you say: ‘let the Council of Europe complain, that’s their job.’

Relations with third countries in the system are driven by Member State interests, which are uploaded to the supranational sphere and have been bureaucratically securitized since the Treaty of Amsterdam. Thus the security effects of changing migration systems as caused by Schengen’s compensatory measures are properly considered instances of Europeanization.

All migrant respondents had paid smugglers for some portion of their journey. Importantly, not all interview subjects in Israel had experienced torture or trafficking, though the majority (41 of 53) had experienced physical abuse or extortion. 35 of 53 migrants reported witnessing or having direct experience with security services who facilitated or were active in their migration. Equally important, less that 1% of all migrants interviewed paid bribes or were extorted at border crossings, indicating a significant level of collusion or corruption of security services.

The majority in Israel (39 of 53) reported having either been trapped in Libya and changed their route to Israel after the closure of the Central Mediterranean or having made a decision to change their destination. 12 of 53 had been kidnapped in Sudan and trafficked into Egypt by criminal organizations, predominantly comprised of nomadic Rashaida from Eastern Sudan.

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**Fig. 6.6: Summary of Migrant Respondents, Israel & Egypt**

<table>
<thead>
<tr>
<th></th>
<th>Israel (Total 53)</th>
<th>Egypt (Total 42)</th>
<th>Total (95)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Changed Route in Response to Libya Closure</strong></td>
<td>39</td>
<td>74%</td>
<td>56</td>
</tr>
<tr>
<td>Trapped in Libya 2008-2010, subsequently left to Egypt</td>
<td>18</td>
<td>34%</td>
<td>20</td>
</tr>
<tr>
<td>Smuggling changed to trafficking during journey</td>
<td>35</td>
<td>66%</td>
<td>40</td>
</tr>
<tr>
<td>Trafficked directly from Sudan / Ethiopia through Egypt</td>
<td>12</td>
<td>23%</td>
<td>17</td>
</tr>
<tr>
<td>Physically abused by facilitators</td>
<td>41</td>
<td>77%</td>
<td>85</td>
</tr>
<tr>
<td>Extorted by facilitators</td>
<td>36</td>
<td>68%</td>
<td>57</td>
</tr>
<tr>
<td>Directly witnessed collusion or corruption of security services</td>
<td>18</td>
<td>34%</td>
<td>58</td>
</tr>
<tr>
<td>Directly paid bribes to security services</td>
<td>13</td>
<td>25%</td>
<td>50</td>
</tr>
<tr>
<td>Physically abused by security services</td>
<td>6</td>
<td>11%</td>
<td>25</td>
</tr>
<tr>
<td>Experiences violence / extortion at borders</td>
<td>4</td>
<td>&gt;1%</td>
<td>7</td>
</tr>
<tr>
<td>Experienced prolonged detention</td>
<td>6</td>
<td>11%</td>
<td>13</td>
</tr>
<tr>
<td>Experienced push-backs / hot returns / réfoulement</td>
<td>3</td>
<td>&gt;1%</td>
<td>8</td>
</tr>
</tbody>
</table>

**Migrant Insecurity**

The Central Mediterranean system is characterized by marked and demonstrable human rights abuses and degraded structural conditions for human security as a direct result of Schengen’s compensatory measures. The most significant and clearly connected with European policies are outsourced human rights abuses to authoritarian states, containing migrants in unsafe states with no recourse to international protection, and pushing migration flows to routes with more severe forms of predation.

Migrants were trapped in Libya as the most immediate effect of the Italy / Libya “Friendship Pact”. More than a third of the migrants I interviewed in Israel spent time in hiding or in prisons in Libya after 2008. They universally reported fear of predation and violence both by criminal networks and security services. Migrants report that Europe-funded detention facilities are characterized by lack of drinking water, poor food, desperate overcrowding, sexual assault, arbitrary beatings, extortion, and deaths from disease (see JRS 2014).
The second and most obvious effect of the closure of the Central Mediterranean was the emergence of the Sinai route. Flows were diverted toward the Sinai in two distinct ways. First, smugglers offered passage from Libya through the Sinai to Israel for trapped migrants. Second, though smuggling rings were active in the Sinai for decades, beginning in 2006 (the same year the EU and Member States began to openly cooperate with Libya and fund detention camps) the preferred route for smugglers and traffickers from Ethiopia and Sudan shifted from Libya to the Sinai (see Collyer 2015). The majority of the academic research and journalism on the Sinai route focuses on the relationship between the nomadic Rashaida tribes in Ethiopia, Eritrea, and Eastern Sudan and Sinai Bedouin (see Humphris 2013; Jacobsen et al. 2013; Collyer 2015; Van Reisen & Rijken 2015).

From 2008 to 2011 the Sinai was virtually the only open route “North”, though most migrants did not view it as their final destination. The majority of the respondents in Israel who had been in Libya (18 / 53) said they had originally planned to go to Europe but were trapped as a result of the “Friendship Pact”. Most responded that they understood a deal had been made to ensure they had little to no chance to make a sea crossing. “We know that because of Italy we cannot go to Europe. In Libya you can be put in prisons if you are caught on the street. We decided to leave but we thought eventually we would arrive in Europe. But now we were tortured in the Sinai and Israel says we will be put in Saharonim [prison in the Negev Desert in Israel]. No one wants to stay in Israel.”111

The Sinai route was characterized by increasingly heinous forms of torture and abuse. The first accounts were published by Israeli Rights groups and the Israeli press in 2010. They recounted a “desert hell” where migrants and refugees were routinely imprisoned and tortured for the purposes of extortion.112 From 2010 onward the business model in the Sinai became increasingly reliant on extortion, and smuggling often turned to trafficking. NGO reports and interviews with migrants reveal a systematic practice of torturing asylum seekers and forcing them to call relatives at home or abroad and to plead for wire transfers. Torture included deprivation of food and water, beatings, whippings, burning with cigarettes or heated metal bars and chains, electrocutions, prolonged hanging from arms and legs, threats of sexual assault, sexual assault, permanent mutilation of hands, feet, and limbs, and threats of organ harvesting (Amnesty International 2013; Human Rights Watch 2008; 2014; van Reisen et al. 2014). In 2010 Physicians for Human Rights-Israel reported over 1,000

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111 Interview with Eritrean asylum seekers. Tel Aviv, June 2011.
women being referred to their Tel Aviv clinic for gynecological treatment, and performing 165 abortions for women who had been raped and impregnated by traffickers.\footnote{Physicians for Human Rights-Israel. 13 December 2010. “Hostages, Torture, and Rape in the Sinai Peninsula: A PHR-Israel update about recently arriving asylum seekers.” Available at: http://reliefweb.int/report/eritrea/hostages-torture-and-rape-sinai-desert-phr-israel-update-about-recently-arriving.} Others reported being forced to work on the construction of private homes.

My field work included a significant number of accounts of torture (85 of 95 respondents). I choose to recount only a few here to show the severity of insecurity as a result of the changing migration system.\footnote{Reports from rights groups offer extensive descriptions of forms of torture and extortion. See Human Rights Watch, 11 February 2014 “I wanted to Lie Down and Die”.} In the summer of 2011 I talked with a group of Eritrean asylum seekers in a café in Tel Aviv. After some discussion two opened their shirts to show horrendous burn scars across their backs, chests, and shoulders. They described a mode of torture in which molten plastic or rubber (it was unclear which) would be slowly poured over them while they were on the phone with their families or members of the diaspora in Europe and North America. The man with the most comprehensive scarring reported that since his family could not pay he was used as a demonstration case to others in his group. The group also recounted how a man in the same group who was not able to contact family had gasoline poured over him and was set alight in order to extort the remaining members of the group in captivity. The heinousness of these types of torture and extortion are corroborated by a range of human rights reports and journalistic accounts.

Others reported instances of separating men and women, and the callousness of the captors in using sexual violence on women in order to influence their husbands and male relatives. As an Eritrean woman recounted, “At first we said we could not pay. One night the guards were drunk and they came and took the men and the women [who were in a different building]. They beat the men on the bottom of their feet and made us look. After they played some sort of game to decide which of the women they would [rape]. But they eventually took all of us. It was after this we decided we would [try to contact] our relatives to pay to leave and go to Israel.”\footnote{Interview with Eritrean asylum seeker. Tel Aviv, August 2011.} A respondent from Physicians from Human Rights-Israel argued that “even those very high levels of sexual abuse are probably a low estimate. Much of it goes unreported for reasons of shame and social stigma.”\footnote{Interview with PHR advocacy personnel. July 2011.}
As profits increased, more migrants were kidnapped from camps in Sudan, Ethiopia, and eventually from Alexandria and Cairo and trafficked to the Sinai for the singular purpose of extortion. Amounts increased from around $10,000-20,000 to upwards of $50,000-60,000 over the course of two years. Respondents from NGOs in Israel and Egypt, including Amnesty International, Physicians for Human Rights, Human Rights Watch, and the African Refugee Development Centre speculated that the reason for the increased demands were that families and diaspora groups had been extorted to the full extent possible. However this explanation cannot be empirically verified.

Not all asylum seekers in Israel were trafficked though their route choices changed as a result of the closure of the Central Mediterranean. Only 6 of 53 interviewees in Israel reported leaving Eritrea or camps in Ethiopia or Sudan with Israel as their final destination in mind (see also the findings in Jacobsen et al. 2013). 11 of 53 asylum seekers in Israel reported making the journey without experiencing physical abuse. My field work corroborates accounts that traffickers would show preferential treatment to Muslim migrants. As one respondent explained: “We were very lucky [because] two from our group spoke Arabic [and so] we could say were all Muslims. We heard many stories of people being tortured by Bedouin. One man from our group argued with the Bedouin when we saw some people chained in a room and they beat him very badly but let him come with us to the border.”117 Once migrants crossed the border they were generally detained by the Israeli army and either sent onward to Tel Aviv with a bus ticket or detained in prisons in the south of the country.

Asylum seekers faced an increased likelihood of being pushed back into Egypt at the Israeli border or shot by the Egyptian army. Human Rights Watch reported that Egyptian security services shot and killed at least 85 asylum seekers on or near the Israeli border between 2007 and 2010 (2014). The Egyptian revolution and attendant turmoil in the Sinai occupied the Egyptian army thereafter. Though Israel is a signatory of the 1951 Refugee Convention and 1967 additional protocol, human security in Israel was often precarious. As described below, the Israeli state and politicians from across the spectrum painted asylum seekers as “infiltrators” intent on undermining the Israeli polity. Political rhetoric had immediate implications for asylum seekers.

NGOs report significant human rights abuses in all states involved in the Khartoum Process. In Egypt refugees, asylum seekers, and migrants face significant depredation, protection gaps, and limited access to social services. Many of the migrants I spoke with in Cairo and Alexandria reported the

117 Interview with female Eritrean asylum seeker, Tel Aviv, June 2011.
threat of being kidnapped from the streets and trafficked to the Sinai. Migrants face significant protection gaps and abuse by security services. Political activities are actively curtailed, and the intelligence services routinely intimidate refugees advocating for increased protection or access to services (see Grabska 2006; Norman 2016). In Sudan, refugees and migrants are increasingly detained and abused by security services. Sudanese armed forces form a significant part of the trafficking networks, though notoriously violent militias have recently become enmeshed in new endeavors to illustrate Sudan’s utility in controlling irregular migration. A human rights activist in Sudan argued that the government and militias see violent crackdowns and deportations of asylum seekers and migrants “as goodwill gestures to show the EU they are controlling the flow.”118 Respondents from the EEAS reported that the Commission and Member States were aware of the human security consequences of the Khartoum Process, but that electoral politics in post-Arab Spring and post refugee crisis Europe trumped concerns over migrants’ security.

**Transnational Organized Crime**

The Central Mediterranean system is characterized by increasingly sophisticated and networked transnational criminal organizations. There is some evidence to support the claim that increasing transnational activity is the result of Europe’s external migration governance. All states in the system show signs of state actors and security services taking part in smuggling and trafficking networks.

Protracted refugee situations and protection gaps help create market incentives for transnational smuggling routes. Reitano et al. report increased profits for smuggling networks in Sudan, as observed by proliferating signs of wealth, arguing “The success of groups practicing smuggling, and the financial rewards associated with it, has furthermore led to the development of criminal networks and increased competition that has resulted in a growing prevalence of abusive smuggling and trafficking in the region” (2017: 9). Their study is unique in that it applies a political economy approach to understanding transnational smuggling and trafficking markets. The Horn of Africa represents a fragmented market with low market consolidation, but as in both the Central and Eastern European and Western Mediterranean systems increased profits mean growing professionalization and transnational networks.

The increased prevalence of trafficking and extortion through Libya has meant the establishment of more hierarchical and transnational criminal networks transporting migrants into the country, though the aftermath of 2011 different criminal groups and militias now compete for control over border areas, camps, and departure points on the Mediterranean coast (UNODC 2010; Malakooti 2016). A leaked report claimed that the trade through Libya generated €275-325 yearly.\footnote{Associated Press. 1 December, 2016. “EU: Libya’s Cities Making $364M a Year from People Smuggling.” Available at: http://bigstory.ap.org/article/86899ee286a14946b47b46b7414494a9/eu-libyas-cities-are-making-millions-people-smuggling}

The EU and Member States consistently claim that European regional dialogues and bilateral support is devoted to “smashing” or “breaking” smuggling rings. However, the US Department of State’s \textit{Trafficking in Persons} reports illustrate that none of the third countries in the Khartoum Process sufficiently prosecute trafficking and smuggling rings.\footnote{All states in the system are ranked as “Tier 2” or “Tier 3” states.} Most continue to arrest and prosecute victims of trafficking (US State Department 2016).

As described above, the Sinai has been a site of significant smuggling since the mid 1980s, with groups taking up the business of trafficking women from ex-Soviet states into Israel throughout the 1990s and early to mid 2000s, and smuggling of goods in and out of Gaza after the end of the Oslo period. However, changes in flows and modus operandi after European engagement with Libya meant the development of increasingly transnational and lucrative business practices. Migrants reported being bought and sold to different criminal organizations along the route. Some migrants I spoke with in Israel and Egypt had reported transferred half a dozen times, with the final stage including the most significant abuse and extortion. I interviewed a member of the Israeli army responsible for Southern border who revealed a relatively intimate knowledge of the Sinai smuggling and trafficking system. As he explained, “human trafficking has become the easiest business for [Sinai] smugglers. Closing the door in Libya made them rich. When they deal with weapons or drugs, they are responsible for the delivery of the merchandise, and will sometimes have to put themselves at risk. With the migrants they just take the money and it doesn’t matter what happens to the ‘merchandise’.”\footnote{Confidential interview with IDF commander. Bersheva, Israel. August 2011.} Another respondent from the UNHCR in Cairo argued that Sinai Bedouin were particularly vicious because they were the final leg of the journey and the smugglers did not have to sell migrants on to another group.

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120 All states in the system are ranked as “Tier 2” or “Tier 3” states.
The fact of international extortion in both countries of origin and diasporas in itself illustrates a degree of sophistication and transnationalism. A respondent from a Western embassy, speaking confidentially, argued that “the money changes hands very quickly. And we think it’s the same brokers who handle money for militant groups. They use the hawala system and so it’s largely untraceable, but moving this kind of money around in such a short time frame requires a relatively sophisticated network.” Several respondents in Israel reported that Eritreans were present in the torture camps and actively involved in extortion, working with agents in Eritrea, Sweden, the UK, US, and Canada to move funds around to pay ransoms.

Closing the Israeli border had immediately pernicious effects as more refugees were kidnapped from around camps or as they crossed the border from Eritrea into Sudan to be trafficked to the Sinai. Once the transnational business model had been established traffickers in Sudan and Egypt switched to more coercive, transnational measures to fill the vacuum. Tightened legislation in Israel and the construction of the border fence led to increased rates of kidnapping from within Egypt and from East Sudan for trafficking into Egypt (see Lijnders & Robinson 2013: 145).

**Security Sector Corruption**

There is very strong evidence for increased corruption throughout the system as a result of Schengen’s compensatory measures. The nature of controls into the Sinai means it is virtually impossible that security services were not involved in trafficking and smuggling. Libya and Sudan are characterized by endemic corruption, and there is clear evidence that security services and high-ranking government officials actively orchestrate trafficking and smuggling rings.

Research in Egypt paid specific attention to the role of security services in smuggling. Most data on the subject came from expert respondents and migrants. My single interview with a high-ranking member of the security services ended with the warning: “It is time to stop asking these questions. Foreign researchers may not investigate corruption. You will be removed from the country.” Evidence of the scale of corruption in Egypt is mixed. Respondents from UNODC and Western embassies argued that it was almost impossible to discern whether the security services were actively orchestrating smuggling and trafficking or whether collusion was limited to ground-level

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122 Interview with Western embassy personnel. Israel, 2012.
123 Interview with security official. Cairo, March 2013.
opportunism. A respondent from the IOM office in Cairo argued that in Egypt “It’s not about corruption, per se, but about the economic and social factors. In places it’s a choice between not feeding your family and taking a bribe. It’s normal, or at least normalized.”

However, a respondent from the NGO Hotline for Migrant Workers in Israel emphasized that the scale of corruption and abuse in the Sinai should be understood in light of longer term trends:

Rapes occurred when the main group of people being trafficked was prostitutes from the ex Soviet Union. We heard testimony from them in brothels or when they would arrive asking for help. We heard from them there were around eight checkpoints that needed to be crossed to smuggle people along the route. The [Egyptian] army had to be involved. But the situation now is much different. The number of the people being trafficked has gone up too much for senior people in the military not to be involved.

Egyptian geography and the prevalence of checkpoints into and within the Sinai render it all but impossible that Egyptian security services did not at least collude with, but more likely actively facilitated smuggling and trafficking into and through the Sinai from 2006 onward. There is only one bridge crossing the Sinai Canal into the Sinai from the rest of Egypt (the Al-Salaam Bridge near Ismailiya), and one tunnel further south near Suez city. As an Egyptian journalist with a history of reporting on the Sinai told me:

The Egyptian army is involved [in the smuggling]. It’s just not clear if it’s orchestrated from the top. The Sinai has always been a difficult place to understand. Sometimes the police are involved in smuggling, and sometimes the army is executing teenage kids [on security grounds]. My suggestion is to think of it as a group of gangs with no one in full control. The army has the weapons and controls the access but the tribes know the territory and have the support of their families. The smuggling is too lucrative to stop altogether.

Active involvement of security services were related by the majority of migrants interviewed both in Israel and Egypt. Twenty-five percent of migrant respondents in Israel reported directly paying bribes to security services along the route, and 34% reported witnessing the collusion of security services. In Egypt, the number was 95% and 88% respectively. As an Eritrean asylum seeker in Israel recounted:

When we arrived over the border from Libya we were put in a different bus with Egyptian drivers. They did not even bother to draw the curtains to hide us. At another checkpoint the driver changed and we could see he went into the army building. Then

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124 Interview with IOM personnel. Cairo, June 2013.
126 Interview with Egyptian journalist, Alexandria, February 2013.
In addition, migrants reported that Egyptian security services actively worked with gangs in the Sinai both to transport them to the border and ensure they did not escape. Two migrant respondents in Israel reported escaping from traffickers in the Sinai and reporting to police, only to have the traffickers arrive at the police station and take them back to the torture camp. Their punishment for escape included being burned across the backs and thighs with hot iron bars.

Migrants report the significant presence of Egyptian security services in and around camps in the Sinai in the pre-revolutionary period. A group of four Sudanese asylum seekers I interviewed in Jerusalem in 2011 reported how a uniformed soldier was present for their extortion, though it was limited to threats and relatively mild physical abuse. Importantly, at the end of the interview the men recounted how when they’d finally been able to transfer the funds after a period of several weeks they were picked up and transported by the same uniformed soldier. He arrived at the camp where they were held, changed into civilian clothes, and then transported them North-West to the Israeli border. The men reported no issues with Egyptian soldiers while trying to cross. These types of dynamics with security services were reported on three other occasions with interview subjects in both Tel Aviv and Bursheva. Two Eritrean asylum seekers in Jerusalem reported listening in on phone calls between smugglers and members of the security services where one smuggler would list off times and locations of patrols, as well as arranging for cash deliveries.

Evidence for the role of security services in physical violence is mixed between high level corruption and simple collusion. “Police and army are seen in the camps negotiating for money transfers; large piles of cash changing hands. It’s not clear if police actively take part in torture.” As a support worker at the Physicians for Human Rights clinic in Tel Aviv recounted, “People get to the [Israeli] border and are caught and notice that the one of the guards at the police station was at the [torture] camp getting drunk and raping women. Migrants say they are the worst, the most violent. After the revolution things were even worse because they stopped pretending to be police.” The revolutionary period in Egypt meant even more significant and obvious involvement of security services. “During the revolution [January to March 2011] there were several reports of those caught by soldiers being sold back to another torture ring, or perhaps to the same group but to a different

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127 Interview with female asylum seekers, Tel Aviv, August 2011.
128 Interview with PHR advocacy personnel. July 2011.
129 Interview with IGO personnel, Tel Aviv, June 2011.
Another way smuggling Tel Aviv, July 2011.

Interviews with IGO personnel, Cairo, March 2013.

Activists were interviewed and reported paying bribes to security services in cities. Several reported paying bribes more than once to men in different types of uniforms. A group of Sudanese men recounted a story of being arrested on their way home from a café in the neighbourhood of Arba w-Nuss, being made to pay bribes to police, then being dumped on the far outskirts of Cairo near Giza, where they were physically abused by locals.

Interviews with Sudanese and Eritrean migrants in Cairo found that the longer their time in Egypt, the more likely they were to have been directly assaulted by or paid bribes to security services. 88% of those interviewed reported paying bribes to security services in cities. Several reported paying bribes more than once to men in different types of uniforms. A group of Sudanese men recounted a story of being arrested on their way home from a café in the neighbourhood of Arba w-Nuss, being made to pay bribes to police, then being dumped on the far outskirts of Cairo near Giza, where they were physically abused by locals.

Activists from refugee communities reported that Egyptian security officials colluded with embassies to arrest and torture prominent opposition activists. In Israel, asylum seekers repeatedly stated that the Eritrean embassy would plant spies to identify family names and places of origin. After the military coup in Egypt in 2013 the Sisi regime changed laws to require Syrians to have entry visas to Egypt. The Salloum border crossing between Egypt and Libya was tightened over concerns of weapons smuggling after 2011, but evidence remained that Syrians could still bribe security officials to cross into Libya (Altai Consulting 2015). Egypt has not prosecuted a single case for collusion in smuggling or trafficking either into Egypt or through the Sinai (RMMS 2014: 75).

In Israel, respondents reported knowing the identity of Eritrean and Ethiopian middle-men living in Tel Aviv who were responsible for extorting migrants. “Dirty police in Tel Aviv were involved in the smuggling of women from the former Soviet Union for a decade. There’s no proof and probably no way to prove it, but we think it’s possible they [still] get some money to look the other way.”

Another NGO worker providing legal support for asylum seekers put the case more forcefully: “We

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130 Interview with NGO worker. Tel Aviv, July 2011.
131 Interview with IGO personnel, Cairo, March 2013.
132 Interview with NGO personnel, Tel Aviv, August 2011.
know exactly who is colluding with [Bedouin traffickers] in Israel. We call the [special police units] to give them mobile numbers and names, but nothing comes of it. They never stopped being corrupt, especially after they lost their money from the brothels.”

However a respondent from a Western consulate with significant insight into the situation argued that corruption in Israel was limited to low-level collusion rather than systematic corruption given the securitized framing of the issue.

The situation in other states in the system is far clearer. Corruption in Libya is endemic. Before 2011 smuggling routes were largely controlled by veterans of Qaddafi’s “Islamic Legion” who knew the border territories in the south and maintained strong ties with the security services (UNODC 2011: 50). Using data from over 200 interviews with members of Libyan security services in 2013 around the issue of trafficking and smuggling, Shaw et al. found that the Qaddafi regime was known to have parceled out portions of trafficking routes to those close to the regime as a form of black market rents (2014: 7). Several migrants interviewed in Cairo and Tel Aviv reported smugglers and security services in Libya were indistinguishable, and uniformed personnel repeatedly visited safe houses and staging areas, drinking tea and negotiating with smugglers. Six different respondents in Tel Aviv who had transited through Libya reported uniformed soldiers arriving at camps, changing into civilian clothes, and taking up passenger positions in trucks. Six respondents in Israel and Egypt reported paying guards to escape; reports which are corroborated by ICMPD interviews (2010).

There is evidence Qaddafi’s sons were directly involved in detention and trafficking rings on the Libyan coast, and therefore would have benefitted both from European migration controls which drove up prices and from cash and material transfers as parts of the highest echelons of the regime (Coluccello & Massey 2007). Detained migrants face situations of forced labour, and are often “rented out” from EU-funded detention facilities as forced labour (Reitano & Tinti 2015: 13).

There is significant evidence that Sudanese security officials and members of the Sudan Refugee Agency are actively engaged in both trafficking and smuggling (see Reitano et al. 2017). Commission and EEAS respondents recounted how in closed-door meetings with Sudanese counterparts they stated simply that to stop smuggling and trafficking through Sudan it would cost €300 million annually since they would have to replace the profits made by high-ranking officials. When asked whether this was hyperbolic or said in jest the EEAS respondent said, “They were

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133 Interview with NGO personnel, Bersheva. August 2011.
offering to facilitate the negotiations.” Respondents from DG Home told me: “We can run a couple of trainings on border management and anti-corruption, but we can’t change the structure of the black economy [...] Member States’ priorities are to win elections and stop smuggling. It’s not going to happen. The more challenging they make it the more lucrative it becomes. Then state officials get involved when they see how much money is flowing. The stories from trying to deal with the Sudanese are astounding.” Rights groups, the US State Department, and research projects consistently report collusion between traffickers and officials around camps in Eastern Sudan as well as facilitating transit through Sudan to Libya (Lijnders & Robinson 2013; HRW 2014).

Though corruption cannot be said to be caused by European policy, the direction of European interactions with third countries tends toward glossing over human and civil rights and good governance in the interest of stability and order. A civil servant from the Commission put Europe’s influence quite succinctly: “We can’t affect high level corruption in third countries. We know the money goes into the wrong hands. Sadly we’re not talking about democracy anymore. The calculation is between jihadis slipping into irregular migration flows and paying states to try to improve conditions so people stay. Maybe the best we can do is to try to make civil society stronger.” The Khartoum Process and engagement with authoritarian and endemically corrupt regimes in the system is revealing of the fact that EU and Member State priorities privilege even minimal influence on transit state policies over normative concerns about corruption. Schengen’s compensatory measures thus push irregular migration flows to and contain them in states with endemic corruption, and transfer funds to these states for controls where they are likely to entrench corruption rather than alleviate it with ostensible benign Europeanization around good governance.

**Emboldened MNAs**

The Central Mediterranean system shows the most significant relationship between Schengen’s compensatory measures and emboldened militarized non-state actors (MNAs). As detailed below, there is evidence for EU funds going directly to MNAs in both Libya and Sudan. The relationship in the Sinai is more complicated since the argument for emboldened MNAs relies on the connections between proceeds from trafficking as a result of new market conditions and increased capacity to carry out attacks. Field work in Egypt investigated these connections.

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137 Interview with DG NEAR personnel. Brussels, November 2015.
The Sinai has long been considered an area of weak state control. The 1979 peace agreement between Israel and Egypt limited the level of armed forces in the region. Though sparsely populated, roughly 70% of the Sinai population is Bedouin. The Sinai has long been neglected by the Egyptian state, particularly during its developmental phases in the 1980s and 1990s. Most Sinai Bedouin have been restricted from both the armed forces and the economy in general. The North Sinai has been the site of significant state violence, including widespread collective punishment for militant activities (see Sabry 2015). The Egyptian state exercises tenuous control over the area characterized by an array of tribal affiliations and different jihadi organizations (see Ronen 2014).

The North of the Sinai is effectively controlled by the Sawarqa tribe, who were both the most implicated in Sinai trafficking and responsible for attacks on pipelines carrying natural gas from Egypt to Israel. After the 2011 revolution tribes looted weaponry and materiel. In 2011 militants from the same regions of the Sinai as the trafficking rings launched a cross-border attack on a highway near the Israeli resort town of Eilat, killing eight civilians. Importantly, it was found that the militants were in possession of anti-aircraft rockets from Libya (Zohar 2015). Since 2013 militants have been in relatively open conflict with the Egyptian state, and have conducted a series of terror attacks throughout the Sinai and in Egypt proper attacking tourists, politicians, and security officials.

In Cairo I spoke with personnel from embassies of three Western states specifically about the confluence between Bedouin trafficking groups and MNAs fighting the Egyptian state in the Sinai. They argued that the revenues from trafficking were being used to procure weapons flowing out of Libya. According to one confidential informant:

We know for a fact that weapons are moving from Libya into Egypt and on to the Sinai. The Egyptian army is officially our partner, but since the revolution it’s more difficult to know who we can rely on [for accurate intelligence]. The biggest worry is that [militants in the Sinai] will get their hands on high-altitude surface-to-air missiles and bring down passenger planes [...] these are the same people involved in the torture camps where they generated significant income for weapons.138

However, a report from the Global Initiative against Transnational Organized Crime and the Institute for Security Studies argued that:

There is currently no concrete evidence of terrorist groups financially profiting from the migration flows in the past years, but there has been no systematic study of this. Nascent evidence from certain conflict zones suggests that human trafficking and the

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138 Interview with intelligence personnel from foreign embassy. Cairo, March 2013.
Respondents in Egypt were convinced that trafficking rings and MNAs were inseparable, arguing “The Sinai has always been about smuggling and anti-state activities. Weapons into Gaza, people out of Gaza, drugs and women into Israel. The media looks at the trafficking and think it’s something new. But it’s always been there and it is all interconnected.” The causal connection between Schengen, however, is that pushing irregular migration routes to the Sinai after the “Freindship Pact” enriched MNAs at a time when the Egyptian state was particularly weak and fractured. Personnel from the UNODC worried “the situation is incredibly murky. Weapons are getting into the Sinai, and we know they’re not coming from Gaza or Israel. It should be an easy border to secure, but the fact is that the army conscripts aren’t well paid by the state. If smuggling rings can move tens of thousands of Africans across the Suez [canal] they can definitely move a few crates of rockets.” Other respondents argued that smuggling incomes were the main source of funding from militant groups in the past and these were the same groups who had both trafficked migrants and were fighting the Egyptian state.

The UN Security Council panel of experts on Libya found that while the Egyptian state transferred weapons and helicopters to militias controlling the East of the country, they also warned that small arms were being smuggled out of the country and posed a security threat for neighboring states, particularly in terms of arming MNAs. They found that “Egypt continues to be among the primary destinations for Libyan weapons” (2014: 48). The single available estimate of which I am aware is that trafficking rings in the Sinai earned roughly $600 million from 2007 to 2013 (van Reisen et al. 2014). Respondents from embassies in Egypt and Israel were unable to provide detailed estimates, though two specifically argued that the post-revolution crackdown on smuggling into Gaza meant groups were forced to supplement income with trafficking.

Evidence for emboldened MNAs in other states in the system relies entirely on secondary sources. During the Qaddafi years the regime largely controlled smuggling and trafficking rings. EU and Member State funding was sufficient to induce the Qaddafi regime to forego income from trafficking. The Arab Spring opened new market opportunities for competing militant groups and the

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140 Interview with personnel from Western embassy. Cairo, October 2013.

141 Interview with UNODC personnel. Cairo, February 2013.
fragmented Libyan security apparatus to move into the market (Micallef 2017). Frontex (2015) found that that a good deal of the fighting on the Libyan coast since 2012 is over controlling the departure points for irregular migrants ships, with jihadi groups, including ISIS, taking part in the smuggling economy. Rights to different sections of beach are owned by different militias, with territorial disputes sometime erupting over control of departure points.

As early as 2011 the EU and Member States attempted to secure deals with different militant groups in Libya in an attempt to repeat their successful cooperation with the Qaddafi regime. Reports from think tanks and NGOs find that Libya’s smuggling and trafficking markets in the post-Qaddafi era are characterized by a “militia-based protection economy” (Micallef 2017; Retiano et al. 2017). Since 2014 Italy has again resumed the transfer of patrol boats and surveillance equipment to the Libyan coastguard for the purpose of migrant pushbacks.142 Trafficking networks are now “embedded within Libyan armed groups controlling territory along the smuggling routes” (UNSC 2014: 47). Attempts to send materiel to support migration controls on Libya’s southern borders relies on cooperation with militant groups, though have resulted in arms being hijacked and funds diverted to militias. In 2014 Libyan Army brigades “diverted” materiel from the Tripoli International Airport (assault rifles, handguns, and ammunition) destined for the EU Border Assistance Mission (UNSC 2014; 28).

In March 2017 the Commission, EEAS, and representatives of eight Member States met with the internationally recognized Government of National Accord (based in Tripoli) in Rome to sign a commitment for sending €90 million in materiel and support to the Interior Ministry and Coast Guard. The deal included yet another plan to set up camps for asylum processing “in full respect of peoples’ rights.”143 Italy was once again at the fore of negotiations. Migrants interviewed in Egypt and Israel consistently report that guards at detention centres acted with complete impunity and there was no functional differentiation between militias and smugglers. The Commission and Member States directly fund the Directorate for the Combat of Illegal Immigration (DCIM), which runs 29 such detention facilities (Micallef 2017). The UN Support Mission for Libya detailed extensive cases where the DCIM and Libyan Coast Guard collaborated with and were indistinguishable from militias, and profited from forced labour and trade in migrants (UNSMIL 2016).

There is evidence of EU funding through Valetta and Khartoum supporting paramilitary forces in Sudan (Reitano 2016: 8). The “Rapid Support Force” (RSF) is officially under the control of the Sudanese National Intelligence and Security Services, but is comprised of rebranded Janjaweed militia responsible for genocide in Darfur. Formed in 2013 to fight a counterinsurgency-type campaign in Darfur, they have since been implicated in a range of human rights abuses and war crimes including forced displacement, looting, torture, extrajudicial killings, and mass rapes (HRW 2015). As of 2015, and in direct response to the Khartoum Process, the RSF were re-tasked with apprehending irregular migrants and controlling the borders with Eritrea and Libya (Reitano et al. 2017). The force is led by a former Sudanese Border Guards commander deeply implicated in trafficking and smuggling rings. Human Rights Watch and the UNHCR report that the RSF are guilty of rounding up migrants in Khartoum and abusing and refouling migrants back into Eritrea.144

European funding for Sudan is channeled through a €100 million “Special Support Measure for Sudan”145 development fund and the general funding through the “Trust Fund for Africa”. Though ostensibly development-focused, a significant portion of the communication on the special support measure focuses on removing the causes for irregular secondary movements through RDPPs. Human rights observers echo the concerns from EEAS and Commission personnel that both the funding and materiel provided are dual use and have been transferred to the RSF (see Baldo 2017). In 2017 the Sudanese Government fully incorporated the RSF into the army, thus making it possible for the group to directly benefit from EU “capacity building”.

**Domestic Political Contestation**

There is significant evidence that pushing irregular migration flows through the Sinai resulted in increased domestic political contestation, particularly in Israel and to a lesser extent in Egypt. Anti-immigrant sentiment in both Libya and Sudan were pervasive before European policies changed the migration system and thus causal relationships are more tenuous. However, enabling a narrative of Libya as exclusively a transit state emboldened the Qaddafi regime to scapegoat migrants during the fragmentation of the country.

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144 Human Rights Watch. 30 May, 2016. “Sudan: Hundreds Deported to Likely Abuse”. Available at: https://www.hrw.org/news/2016/05/30/sudan-hundreds-deported-likely-abuse
Divisions on the issue of African asylum seekers in Israel fell along established socio-political cleavages, particularly the state’s history and demographics, the occupation, and the influence of religion on politics and identity. The majority of sitting politicians in Israel’s right-skewed political spectrum painted the influx as a danger to the security and ethno-religiously exclusive character of the state. Civil society initiatives, rights NGOs, and religious leaders provided an alternate telling, arguing that Jewish history and Israel’s role as an architect of the 1951 Convention presented a specific obligation to refugees. Liberal rights groups organized community libraries, daily meals, kindergartens, asylum rights clinics, and “refugee Seders” in public parks and in detention facilities, drawing attention to Jewish history and religious traditions of exile and refuge in the Sinai.

Most asylum seekers were located in neighbourhoods in South Tel Aviv, which are some of the poorest in Israel, populated by Arab and African Jewish minority groups at the bottom of Israel’s socioeconomic strata. Existing grievances around economic and political exclusion allowed sitting politicians to capitalize on fears of out-groups for domestic political gain. Many followed familiar rhetoric observed in the Central and Eastern European and Western Mediterranean systems, and as described in the subsequent chapter, in the Western Balkan system.

Political rhetoric played on three well-trodden narratives. The first focused on asylum seekers as disease carriers. According the Mark Regev (of the right-wing Likud party): “The Sudanese are a cancer in our body.” Interior Minister Eli Yishai (of ultra-Orthodox Shas party): “Do you know that many women in Tel Aviv were raped and are now afraid to report it so that they won’t be seen as AIDS carriers?” According to Michael Ben-Ari (National Union), “A fourth grader is studying in the same class with infiltrators’ kids; you don’t know what diseases they are carrying. These are the worst viral diseases.” Narratives also included appeals to the authenticity of the Israeli polity. Yulia Shamolov Berkovitch (Kadima) argued, “All human rights activists [who protect the Africans] should be imprisoned and transported to camps we are building.” Again, the sitting Interior Minister Eli Yishai claimed, “Muslims [sic, the majority were Christians from Eritrea] that arrive here do not even believe that this country belongs to us, the white man [sic, most people living in South Tel Aviv are Arab and African Jews and migrant workers from South Asia].” According to sitting Prime Minister Benjamin Netanyahu, “The breach of our border by infiltrators could threaten the Jewish and democratic state […] we will begin by removing the infiltrators from South Sudan and move on to others.” Others framed asylum seekers as hard security threats. MK Danny Danon (Likud) claimed that “Israel is at war. An enemy state of infiltrators was established in Israel, and its capital is South
Tel Aviv.” Finally, MK Aryeh Eldad (National Union) made the rather outlandish demand that: “Anyone that penetrates Israel’s borders should be shot. A Swedish tourist, Sudanese from Eritrea, Eritreans from Sudan, Asians from Sinai; whoever touches Israel’s border – shot.” These statements had obvious and immediate consequences for migrants. To reiterate, while these xenophobic sentiments predated the influx of asylum-seekers, it was the closure of the Central Mediterranean route which pushed the flow to Israel and offered the ground for their mobilization.

In May of 2012 I witnessed anti-asylum seeker riots in South Tel Aviv, where gangs of (mostly) young Israeli men smashed shop and car windows, and beat dark-skinned people in the streets. The riot took place after an afternoon of anti-asylum seeker speeches in South Tel Aviv by sitting politicians.

A Sudanese asylum seeker in Tel Aviv compared the situation in Israel to other states in the system:

> Nothing is so bad as Libya and the volunteers here help us in many ways, but it can sometimes be very bad to be on the street at night. You stay away from young men drinking beer, [especially] if they are in large groups. They throw bottles at you, push you. It does not matter if you are a man or a woman, even if you are carrying a baby they will shout at you. And if something bad happens the police will take you instead of them.

Throughout my time in Israel a shelter for women and children, a kindergarten for asylum seekers, and a refugee home in Jerusalem were firebombed. In the intervening years asylum seekers have been beaten, harassed, and murdered.

More to the point, the issue area has continued to deepen social and political cleavages both on the left / right spectrum and between asylum seekers and those at the bottom of the socioeconomic ladder. Asylum seekers and supporters have staged a series of large-scale demonstrations and civil actions, which are routinely met by counter-demonstrations and government crackdowns on rights NGOs. In 2016 Israel passed a law to undermine the capacities and public perceptions of foreign-funded NGOs. 25 of 27 NGOs affected were human rights or social justice oriented, and included three of the most prominent advocating for and providing services to asylum seekers.

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147 Interview with Sudanese asylum seeker. Tel Aviv. May 2012.


149 Ha’aretz. 3 June 2016. “List of Non-Profits that Would be Affected by Proposed NGO Bill Revealed.” Available at: http://www.haaretz.com/israel-news/premium-1.722917
Despite the efforts of civil society the state apparatus pushed an anti-asylum seeker agenda. In 2009 the Israeli state took over refugee status determination (RSD) procedures from UNHCR, and all but stopped RSD procedures for the majority of asylum seekers. From 2007 to 2015 only 6 asylum seekers were granted refugee status. In 2012 Israel amended its “Prevention of Infiltration” law, previously used to prosecute terrorists, to include all irregular migrants regardless of evidence of trafficking or asylum claims. In Global North states Eritrean and Sudanese asylum seekers have an over 80% approval rate. After some oscillation Israel repealed labour rights for asylum seekers, forcing them into more competition in the grey economy. The Population and Immigration Authority published advertisements warning against employing asylum seekers, claiming “you will not get away with it.”\textsuperscript{150} In the intervening years Israel detained asylum seekers in detention centres in the southern Negev desert. As described below, new laws and punitive measures after protests have resulted in a slow but steady process of repealing support for asylum seekers at the same time as incentivizing departure to African third countries or réfoulement to countries of origin.

The EU and Member States continue to fund Egyptian irregular migration controls despite the fact that asylum seekers face significant depredation and are used as a foil for the regime to bolster support around a narrative of a fifth column. After the 2013 military coup the regime began to cast Syrians as “terrorists” aligned with the recently-ousted Brotherhood. Government-aligned newspapers published reports of Syrian nationals arrested at pro-Brotherhood rallies in Cairo.\textsuperscript{151} After the coup the intelligence apparatus began detaining migrants as part of security roundups and “anti-terror” activities. The UNHCR reported that Egyptian security services engaged in a practice of arbitrary arrests of registered refugees.\textsuperscript{152} Violent repression incentivized refugee community organizations away from advocacy or protest (Norman 2016). Amnesty International documented a significant increase in Syrians attempting irregular crossings from the Egyptian coast after the coup (2013). Respondents from rights organizations and IGOs argued that the Egyptian state targeted asylum seekers, migrants, and recognized refugees to deflect attention from state repression.

\textit{Entrenched Authoritarianism & Democratic Backsliding}

\textsuperscript{150} Ha’aretz, 4, May 2016 “Ads Published by the Immigration Authority Warn of the Employment of Asylum Seekers – Even Though they are Legal,” available at: \url{http://www.haaretz.co.il/news/education/premium-1.2904926}.


Europe’s role in supporting regimes in the system is clear. Discussing the discrepancy between human rights and partnerships with authoritarian transit states, a respondent from the Council argued:

Of course Members States, Commissioners, and politicians talk about [the benefits of authoritarian states] for controlling irregular migration. Think about how the Council works. Human rights and democracy is for on-camera meetings. Business takes place off-camera. The Commission knows when to keep quiet about Member State [bilateral deals]. Commissioners are politicians, and [civil servants] want promotions and worry about their next move. They put the programming into place, but when it comes to [bilateral deals] it’s the Member States who call the shots.153

States in the system have shown significant policy learning in terms of the capacity to leverage the importance of the issue area.

Authoritarian leaders are capable of leveraging EU concessions specifically because the issue area is highly securitized and has become an issue of high politics for the EU and for Member States. According to a respondent from the EEAS, “North African states have learned how to talk the talk around terrorism and trafficking. They all want to fight smuggling all of a sudden. All you have to do is read out press briefings to know what we want to hear. Egypt and Sudan are getting much better at playing this game.”154 As described above, Qaddafi was able to instrumentalize Europe’s focus on irregular migration to rehabilitate his international standing and ultimately lift sanctions (Pliez 2004; Hamood 2006). The EU and Member States were quick to paint Libya is a willing and capable partner despite the fact that Libya fundamentally lacked the rights and protection standards to be an effective partner state in terms of protection criteria (ICMPD 2010).

Libya’s success in rehabilitating its international standing and leveraging concessions acted as an exemplar for other regimes in the system. As a respondent from the ICMPD explained, “I can tell you that the African partner states don’t see [cooperation with Europe] as externalization or imposition. They see it as an opportunity to build their capacity, control their territory, and leverage international concessions.”155 The EU and Member States have allocated €173 million to Sudan for addressing irregular migration.156 Italy, Germany, and the Netherlands are leading relations and programme implementation, and risk normalizing relations with a head of state is under indictment by the International Criminal Court for war crimes. As one respondent from DG Home argued, “The word

155 Interview with ICMPD personnel. Vienna, July 2013.
156 https://euobserver.com/migration/137489
‘corruption’ doesn’t describe Sudan. That word assumes it’s not the norm. It’s a European concept that simply doesn’t mean anything in those contexts. There is no way to tell where the money or equipment will go other than we know the regime to get the support they need. The only other option is don’t engage.”\textsuperscript{157} The government of Sudan is taking a page from Qaddafi’s playbook insofar as they are actively leveraging their role as a major transit state to rehabilitate al Bashir’s international reputation. Since the beginning of the Khartoum Process, Member States have stepped back in terms of openly criticizing human rights abuses in Sudan.\textsuperscript{158}

Likewise, the regime in Egypt has positioned itself as a strong state in terms of stemming the tide of both irregular migrants and terrorists. Respondents from the Commission explained how in post-coup Egypt the regime leveraged its security role to draw greater concessions from the EU. “They say everything is a security risk – terrorism and al Qaeda and who knows what else. ‘Migration is linked to terrorism and if we don’t get the programme funding it’s going to be a problem for Europe.’ But then who knows where the money goes?”\textsuperscript{159} Four respondents from across EU institutions and IGOs recounted how Egyptian delegations arrived at Khartoum and Valletta with the same project proposals they’d submitted under Rabat. In December 2016 a group of MEP’s published an open letter to the heads of the European agencies denouncing the EU and Member States’ cooperation with Egyptian security apparatus amid the increasing repression of civil society and media organizations.\textsuperscript{160}

\textit{Burden Shifting & Regional Tensions}

Regional tensions in the system as a result of Schengen’s compensatory measures were remarkably low. States in the system tended not to interact with one another at an official level on irregular migration. The situation in the Sinai is complicated given that the 1979 Camp David Accords between Israel and Egypt limited the numbers of nature of military in the Sinai. According to experts I interviewed during my fieldwork in both Israel and Egypt, controlling migration in the Sinai was a zero sum game between Egypt and Israel:

Absolutely it’s a ‘beggar thy neighbour’ type scenario. If it’s not Israel’s problem it’s Egypt’s problem. But Egypt is not protesting, which leads one to ask what kind of

\textsuperscript{157} Interview with Commission personnel. Brussels, May 2013. 
\textsuperscript{158} \textit{The Economist}. 29 Sep, 2016. “Hello Right Hand, Meet Left Hand: British Domestic Politics Clash with Human Rights in the Horn of Africa.”
\textsuperscript{159} Interview with DG Home personnel. Brussels, June 2013.
\textsuperscript{160} https://www.anagomes.eu/PublicDocs/c355d2f6-d485-4fc2-b87c-493c69914973.pdf
deal was made [between Olmert and Mubarak in 2007]. But after the revolution who knows? Israel doesn’t care very much if the Egyptian street is upset about a border wall. And Egyptians have more pressing concerns. What happens up there [in the Northern Sinai] is a kind of black box.¹⁶¹

The zero-sum nature of the route did not spill over into a major diplomatic row, though the situation is largely overdetermined given the Egyptian revolution of 2011 and the subsequent 2013 coup dominated the Egyptian political scene. However (and as described above) changes in irregular migration flows and the emergence of flows to Israel contributed to the anarchic nature of the Sinai.

Small diplomatic rows emerged between Egypt and Sudan over Egyptian security services killing Sudanese nationals in the Sinai.¹⁶² But by and large Europeanized irregular migration policies offer incentives for authoritarian states to cooperate on detention and pushback procedures. Actors in Chad, Nigeria, and Libya are cooperating on border and migration controls through the European agenda. While the toppling of Qaddafi meant militant groups threatened to send migrants to Europe if they were not recognized, this was not connected to externalized European migration policies.

The situation between Libya and Europe were of a markedly different tone. In 2010 Qaddafi visited Rome and delivered an infamous ultimatum after demanding €5 billion per year to keep irregular migrants at bay (see Bredeloup & Pliez 2011). Standing beside Italian PM Berlusconi, the architect of the “Friendship Pact”, Qaddafi warned:

Tomorrow Europe might no longer be European, and even black, as there are millions who want to come in […] We don’t know what will happen, what will be the reaction of the white and Christian Europeans faced with this influx of starving and ignorant Africans […] We don’t know if Europe will remain an advanced and united continent or if it will be destroyed, as happened with the barbarian invasions.¹⁶³

Italy announced it had “de facto suspended” the “Friendship Pact” in when Member State and the US began preparations for a no fly zone and air campaign against Qaddafi in 2011. Qaddafi and his son Seif al-Islam told Italian newspapers they felt personally betrayed by Berlusconi,¹⁶⁴ and again promised to send migrants to Europe if his regime was threatened.¹⁶⁵

¹⁶¹ Interview with Western Embassy personnel. Cairo, July 2013.

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International Norm Degeneration

The Central Mediterranean system presents the clearest and most severe instances of norm degeneration in this project. As defined in Chapter 1, international norm degeneration occurs when practices systematically derogate from international protection norms and human rights law as a result of Schengen’s compensatory measures. Domestic political dynamics are an important intervening variable. By shifting the burden to authoritarian transit states or states with exclusive ethno-religious political cultures, European policies thus create the grounds for norm degeneration.

Norm degeneration included widespread practices of réfoulement, non-discrimination between migrants and asylum seekers, lack of due process, and indefinite detention in addition to the widespread human rights abuses detailed above. These dynamics are instances of Europeanization on at least two counts. First, and most obviously, the emergence of the Sinai route was the result of the closure of the Central Mediterranean, pushing migrants to states which then responded with harsher and more securitized practices. Diverting irregular migration flows to paths of least resistance meant that states less capable and willing to recognize rights were responsible for large numbers of people with prima facie asylum claims. More directly, engagement with and support for authoritarian regimes led to clear and direct norm degeneration.

The Libyan Context

The EU normalized relations with Libya with an overt focus on managing irregular migration, despite the fact that Libya was not a signatory of the 1951 Refugee Convention and the UNHCR only enjoyed observer status and did not have regular access to detention facilities. Qaddafi-era immigration and border officials claimed “there are no refugees in Libya” (HRW 2009: 10). Throughout the 1990s and early 2000s Libya conducted a series of mass expulsions of sub-Saharan migrants. While most relations were ostensibly bilateral ties between Italy and Libya, the Commission de facto funded expulsion and potential réfoulement and chain réfoulement from Libya through IOM’s Trim operations (Andrijasevic 2006). Italy has returned asylum seekers and pushed back migrants to Libya in full cognizance of the conditions in the country. The dynamics have continued in the post Khartoum and Valletta period. In 2017 NGO Sea-Watch reported on Libyan coastguard boats attacking migrants at sea; video footage shows uniformed Libyan coastguards
whipping and flogging apprehended migrants and shooting at boats at sea. MSF reported uniformed Coast Guards on Italian-supplied boats looting migrants’ cash and phones. Members of the European Parliament recounted in interviews how they are consistently presented with reports on the implications of Europe’s influence and present these to the Commission and Council.

Member State governments and EU institutions were aware of the content of bilateral arrangements between Italy and Libya and the effects of the policies on migrants. In response to questions around the Commission’s knowledge about the nature of Italian priorities in Libya, a senior civil servant in the Council familiar with ministerial dialogues on migration and border management offered a rather sober reckoning of external migration relations:

Yes, without a doubt [the Commission and the Council] knew what Italy was up to with Libya. If you knew enough to ask the question then of course they knew. [...] Every Member State has the right to enter into bilateral relationships and to control their borders and no state would dare to transgress this right. The Commission channeled funding through the [Italian] Interior Ministry. [...] The difference in the EU is we have a common interest in controlling the borders. Do academics believe that they don’t discuss these plans in the Council of Ministers? Who would say no? France, the UK, Germany? Better the migration is managed in North Africa than in Calais. Can you imagine? Calais is an unregulated refugee camp in France, right out in the open, with NGOs offering humanitarian aid. Its two hours from [Brussels]. It’s a total embarrassment.167

Speaking about the 2015 refugee crisis and the post-Qaddafi unrest the respondent continued:

Everyone knows we have to do something. It’s a crisis and we’re making decisions like it’s a crisis. Libya is anarchy; ISIS is there, and Italy is still trying to make deals. Mogherini wants to pick a group and make concessions. Think of it: pick some Islamist rebels, probably full of people from the Qaddafi regime, who we just killed, recognize them as the government, and pay them to stop the boats. That is the plan! Now it seems like a dream to have a strong dictator you could make a deal with.168

Pushing migrants back to Libya amounted to réfoulement given the lack of protection standards. In addition, the lack of asylum processing in Italy before conducting return operations to Libya amounted to abrogation of the norm of discrimination of asylum seekers as a unique category of migrants. Funding detention centres outside of the purview of international oversight or access from UNHCR amounted to support for indefinite detention in the absence of access to asylum procedures,

168 Interview with COREPOR staff. Brussels, November 2015.
often for people from states such as Eritrea, whose nationals many Global North receiving states consider as having *prima facie* claims for refugee status.

**The Israel / Egypt Context**

A significant body of scholarship explores Israel’s exclusive ethno-religious identity and barriers to both non-European Jews and non Jews (see Ya’ar 2005; Yonah 2005; Cohen & Susser 2009). The issue of asylum seekers was immediately framed as a demographic threat to the Jewish character of the state. Coupled with a deeply securitized culture around borders and mobility, the emergence of the Sinai route meant the development of a series of rather brutal, systematic practices which fundamentally abrogated norms of the international refugee regime – despite the fact that Israel was an architect of the regime and heralds itself as the only liberal democracy in the Middle East.

In 2007 Israeli Prime Minister Olmert met with his Egyptian counterpart in Sharm el Sheikh to discuss the emergence of the route. While the meeting was secret, the aftermath was a so-called “shoot to stop” policy on the Egyptian side and the practice of “hot returns” from the Israeli side. Interviews with expert respondents from NGOs, foreign embassies, and international organizations in Israel focused on the effects of the deal on migration flows. A respondent from a Western embassy with knowledge of the security situation in the Sinai told me the meeting and violent practices on both sides of the border were “one hundred percent connected. The hot returns and the shoot to kill started to happen immediately after the meeting. But the agreement is unwritten, so according to the High Court it can’t and shouldn’t be the basis for state procedure. It’s impossible to say what Olmert offered [Mubarak] – probably some intelligence or private business concessions.”169 While Human Rights Watch (2008) reported that the “hot returns” were ordered by the “political echelon,” findings from my research illustrate that the practice was dependent on the particularities of the border. “None of this was official, which was the whole point. The whole preface of the hot returns is a series of agreements between local commanders. Hot returns increased after the revolution because of a lack of control in the area. The place is amorphous. It’s ad hoc and not really the type of place or situation that’s responsive to top-down policies.”170 Respondents estimated that over 1000 asylum seekers were pushed over the border between 2008 and 2013.

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169 Confidential interview with foreign embassy personnel. Tel Aviv, September 2012.
170 Interview with IGO personnel, Jerusalem, May 2012.
Rather like the practices of Israeli forces in the West Bank and Gaza, hot returns were idiosyncratic to particular units. As a front-line NGO respondent explained: “One of the more consistent things we’re hearing is that it matters which units are on patrol in a given day. Regular service units are far more likely to shoot at migrants and push them back over the border, whereas reservist platoons will give them water, first aid, and generally treat them like humans before bringing them to a base or handing them over to the police. [The assumed reason] is that reservists have more time and exposure to media accounts of the struggle of asylum seekers.”\textsuperscript{171} A reservist from the IDF I spoke with who had spent time on the border described the process: “We see them coming with the [nightvision] scopes and shoot flares into the air. This tells the Egyptians there are migrants coming and gives them the light to shoot. The Egyptians do not have the high tech [sensors] that we have. My commander told us not to do it and to help the migrants. But some [regular service soldiers] on bases joke about seeing the refugees freeze like animals when the flares go up.”\textsuperscript{172} An Israeli academic who focuses on IDF practices explained that “If commanders tell their units to push people back they will. The culture of the IDF does not include refusing orders while on a mission. They’re trained for exactly this kind operation. We train for terrorists coming in from Lebanon, Gaza, the Golan Heights. This is what the IDF does. If they know one thing it’s how to spot someone sneaking across a border.”\textsuperscript{173} Human Rights Watch and media reports consistently found that the Israeli army used spotlights and flares to illuminate the border and facilitate apprehensions and shootings (HRW 2008). From 2007 to 2008 the Egyptian army killed at least 33 migrants on the border. The Egyptian army was reported to have first shot migrants and then bludgeoned them with sticks and rocks.

Policies around work and housing rights were muddled and not applied uniformly, though asylum seekers were barred from living in central Tel Aviv and thus pushed to disenfranchised neighbourhoods in South Tel Aviv. From 2008 onward Israel set policies of mandatory detention for migrants crossing the border. In 2012 Israel amended its 1954 “Prevention of Infiltration Law,” originally developed to address the issue of Palestinian militants crossing into Israel from Jordan in Israel’s early years. The inclusion of asylum seekers in the category of “infiltrators” meant mandatory jail terms of three years for irregular border crossings, renewable indefinitely until deportation. While the High Court struck down a series of amendments to the law, the fourth and final amendment allowed for a year of detention and transfer to “open detention centres” in Israel’s Southern desert for indefinitely renewable short-term detention. The Holot detention centre is neither

\textsuperscript{171} Interview with Physicians for Human Rights – date.
\textsuperscript{172} Interview with IDF reservist. Tel Aviv. June 2011.
\textsuperscript{173} Interview with Israeli academic. Jerusalem, July 2012.
heated in winter nor cooled in summer. Asylum seekers who secured work permits were obliged to deposit 20 percent of earnings and their employers 16 percent of earnings to be reimbursed upon departure from Israel (Avraham et al. 2015).

Israel concluded murky agreements with Uganda and Rwanda, reportedly in exchange for cash, arms, and agricultural technology to accept asylum seekers with no connection to those countries. Third country national (TCN) clauses are a central component of European readmission agreements, potentially leading to chain réfoulement. While European TCN readmission agreements include rights clauses, the Israeli agreements did not include guarantees for protection against réfoulement. The policy began in earnest in 2014, and targeted asylum seekers in detention. Asylum seekers receive a cash payment of $3,500 upon departure, and reported immigration authorities offering them a choice between “voluntary” deportation to third countries and réfoulement to Sudan or Eritrea (Avraham et al. 2015). Several asylum seekers who thought they were en route to third countries were in fact returned to countries of origin. Others reported being summarily ejected to Uganda after arriving in Rwanda though forced to pay smugglers for the journey. Smugglers were aware of the amounts of the cash inducements from Israel.\footnote{International Refugee Rights Initiative. September, 2015. “I Was Left with Nothing: ‘Voluntary’ Departures of Asylum Seekers from Israel to Rwanda and Uganda.” Available at: \url{http://www.refugee-rights.org/Publications/Papers/2015/IWasLeftWithNothing.pdf}.}

In 2013 Israel finished the construction of a comprehensive border fence, and crossings dropped to almost zero. Between 2007 and 2013 almost 60,000 asylum seekers had entered Israel through the Sinai route. By 2016 40,721 remained.\footnote{Population, Immigration, and Border Authority, Government of Israel “Foreigners in Israel, 3rd Quarter 2016”. Available at: \url{https://www.gov.il/BlobFolder/reports/foreign_workers_report_q3_2016/he/foreign_workers_STATS_Q3.pdf}} By 2017 asylum seekers deported to third countries or countries of origin were arriving in Europe by boat through Libya.\footnote{Faure, Gaëlle. 11 April, 2017. “Africans Leaving Israel Under Secret Deals Arrive on Europe’s Shores.” \emph{Refugees Deeply}. Available at: \url{https://www.newsdeeply.com/refugees/articles/2017/04/11/africans-leaving-israel-under-secret-deals-arrive-on-europes-shores}.} In a tragic end to the narrative of shifting routes, dirty deals, and Libya’s shattered state, in 2015 three Eritrean asylum seekers who had been detained in the Holot and induced to leave Israel to Rwanda were filmed being executed and beheaded by ISIS on a Libyan beach.\footnote{Matar, Hagai. 21 April, 2015. “ISIS Executes Three Asylum Seekers Deported by Israel.” \+972\emph{Magazine}. Available at: \url{https://972mag.com/isis-executes-three-asylum-seekers-previousely-deported-by-israel/105758/}.}

\textit{The Wider Regional Context}


\footnote{Population, Immigration, and Border Authority, Government of Israel “Foreigners in Israel, 3rd Quarter 2016”. Available at: \url{https://www.gov.il/BlobFolder/reports/foreign_workers_report_q3_2016/he/foreign_workers_STATS_Q3.pdf}}


\footnote{Matar, Hagai. 21 April, 2015. “ISIS Executes Three Asylum Seekers Deported by Israel.” \+972\emph{Magazine}. Available at: \url{https://972mag.com/isis-executes-three-asylum-seekers-previousely-deported-by-israel/105758/}.}
The Khartoum Process and Emergency Trust Fund for Africa largely conflate trafficking and smuggling, and focus on a policy of containing irregular secondary movements in an area characterized by large scale predation on recognized refugees (see Majidi & OUCHO 2016). Khartoum has resulted in clear instances of réfoulement and the non-discrimination of asylum seekers as a special category of migrants. Egyptian security services summarily arrest irregular migrants after failed boat journeys or on suspicion of irregular movement to Europe. Rights groups reported indefinite detention of Syrian Palestinians as a tactic for incentivizing return to Syria. Sudanese border patrols were found to have detained Eritrean asylum seekers, kept them from access to UNHCR, and dumped them over the border with Eritrea. In May 2016 alone the government of Sudan deported almost 600 Eritreans, including six registered refugees, and denied UNHCR access to those who expressed the desire to claim asylum. A UK All Party Parliamentary Group for Sudan and South Sudan found that engaging with Sudan through the Khartoum Process is “likely to be ineffective in tackling migration and highly damaging to the EU’s reputation as a human rights standard-bearer” given that the state is itself a driver of irregular secondary movement, engages in practices tantamount to réfoulement, and is actively engaged in smuggling and trafficking. Bilateral arrangements resulted in clear and systematic practices of réfoulement in Libya, Israel, Italy, and Egypt. More to the point, systematic réfoulement resulted in demonstrable rights abuses of migrants, as detailed in numerous reports by human rights groups and the Council of Europe, presented directly to the Commission and Parliament.

6.5 Conclusions: Authoritarian States, Trapped Migrants, and the Fallacy of Benign Europeanization

The Central Mediterranean irregular migration system is characterized by the most severe indicators for malignant Europeanization with the exception of regional tensions. Both dynamics can be

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180 EU Observer. 10 April 2017. “EU Funds for Sudan May Worsen Fate of Refugees”. https://euobserver.com/migration/137489
181 Human Rights Watch. 30 May 2016. “Sudan: Hundreds Deported to Likely Abuse”. Available at: https://www.hrw.org/news/2016/05/30/sudan-hundreds-deported-likely-abuse
explained by the fact that the system is largely comprised of authoritarian and autocratic regimes with a distinct lack of policies or laws for protection, rights, and due process. In the absence of membership incentives the EU and its Member States exercise insufficient leverage to induce positive changes in rights or governance indicators generally taken as the object of analysis in Europeanization research agendas. The recast European Neighbourhood policy, regional dialogues, and financial instruments now largely dispense with efforts at benign Europeanization. Third countries leverage Schengen’s compensatory measures for financial and material concessions.

The large proportion of refugees and migrants in the system, when coupled with the endemic poverty and weak civil and political rights, lack of protection and prospects for durable solutions, and significant predation and protection gaps act as push factors to Europe. Endemic corruption and preexisting trafficking and smuggling models were exacerbated by externalized migration controls. Politicians in states with a pre-existing narrative of ethno-religiously exclusive identity are able to capitalize on sudden influxes of migrants in order to garner domestic political support. This latter dynamic is important for the subsequent case study on the Western Balkans system.

Given the endogenous political factors in the region, Schengen’s compensatory measures cannot be said to cause corruption or human insecurity since these existed beforehand. But pushing migration flows to and containing them is weaker and more corrupt states exacerbate existing domestic factors. Funneling money to authoritarian leaders and criminal networks, which are often one in the same, emboldens and funnels profits to authoritarian regimes.

One of the central lessons for the wider study is that strong, authoritarian states can effectively curtail irregular migration flows. Thus the 2015 EU / Turkey deal, while internationally notorious given the weight of journalistic, political, and scholarly attention, was far from novel. The Italy / Libya “Friendship Pact” paved the way for both European policy with authoritarian third countries and for authoritarian states’ engagement with Europe. Evidence suggests that actors in the system have learned from Qaddafi’s example. Schengen’s compensatory measures incentivize authoritarian leaders in Sudan, Egypt, and Libya to position themselves as transit states. In November 2015 the General National Congress of Libya threatened to hire boats and send migrants to Europe unless the EU recognized it as the legitimate government of Libya.183 The EU and Member States have embarked on

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183 EU Observer. “Libyan Faction Threatens EU with Migrant Boats”. Available at: https://euobserver.com/foreign/130939.
new policies to work with the governments of Chad, Niger, and Libya to control Libya’s Southern borders. Throughout 2017 the Italian government sought to blame international NGOs conducting rescue operations in the Mediterranean for colluding with smugglers and traffickers.

The normatively-troubling lessons from the case are that strong, authoritarian rulers and states where geography favors hard barriers to irregular migration are capable of containing or diverting irregular migration flows. Speaking with a respondent from DG Home with deep experience in border management and the EU’s relations with third countries argued that “Everyone talks about the water analogy likes it’s inevitable. But Morocco and Libya show us you can stop people from arriving. Effective fences would mean you could stop people. No one is ready to talk about this openly but it’s the nature of the discussion in the Council.”

Second, the relationship between securing the open border Schengen regime and the compliance of authoritarian states converge on policies for containing migration flows where the good governance, rights, and rule of law criteria are removed from bargaining. The post-Qaddafi period shows that in the absence of strong, authoritarian leaders, externalized migration control policies have little to no effect on flows across the Mediterranean. In 2016 and 2017 flows from Libya to Italy had had reached record levels. As described in my Conclusion, at the time of writing Member States and the Commission were once again embarking on a series of policies to rebuild the fractured Libyan state explicitly for irregular migration controls.

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Chapter 7  The Western Balkan System: Burden-Shifting, Democratic Decline, and the Breakdown of Schengen’s Solidarity Mechanisms

7.1 Introduction

This chapter examines the effects of Schengen’s compensatory measures on the Western Balkan irregular migration system. The system is unique in that it is comprised entirely of Member States and candidates, offering the potential for analyzing the differential effects of Europeanization where EU incentive structures are arguably at their strongest; and as a diagnosis of long-run Europeanization in post-Cold War enlargement states. All states in the region, to some extent, are under binding obligations for the Schengen acquis.

My analysis of the system includes Bulgaria, Croatia, Greece, Hungary, Macedonia, and Serbia. I focus on the 2015-2016 migration crisis, in which the region acted as a de facto humanitarian corridor for over 1 million irregular migrants from Turkey to Western Europe. Findings rely on six months of fieldwork at the height of the crisis, from June to December, 2015.

I argue that the Common European Asylum System (CEAS) and ad-hoc solidarity mechanisms incentivized Member States to burden-shift and defect from registration and asylum procedures, particularly Greece. In Hungary, adhering to the letter of the Schengen Border Code and CEAS allowed the government to enflame and leverage anti-Brussels and anti-refugee domestic political sentiment to further entrench authoritarian state capture and undermine opposition actors. The subsequent response from Brussels and Member States allowed the Órban government to bolster its role as a regional, illiberal norm entrepreneur.

Given ongoing accession negotiations in Serbia, and to a lesser extent Macedonia, the EU had significantly more leverage over policy responses. This allowed Serbia to become a buffer state for registering and screening migrants. In Serbia, the crisis reinvigorated the accession process after a long period of stagnation. Almost two decades of pre-candidacy and pre-accession engagement in the former Yugoslav states in the system have doubtless resulted in formal compliance on rule of law and the adoption of Schengen border and mobility mechanisms. However, formal compliance has not
resulted in deep structural reform or mobility control capacities; socioeconomic development remains low with significant impacts for societal perceptions of accession.

As in the other cases, domestic politics, regime type, and EU incentive structures were key intervening variables for formal compliance. However, the zero-sum nature of the crisis and risk of hosting large numbers of trapped migrants meant that Member State decisions to impose country-specific limitations on asylum claims and close borders cascaded through the system, leading to universal emulation of restrictive policies and Malignant Europeanization across most indicators.

The first section describes my data and field work. I spent six months throughout the Western Balkans at the height of the migration crisis, from June to December, 2015. During that time I also spent three weeks in Brussels interviewing EU policymakers. My visit coincided with the aftermath of the Bataclan massacre and Paris attacks, and subsequent Brussels lockdown. During that time European politicians, pundits, and academic discussion was dominated by the migration crisis and a narrative of the impending collapse of Schengen.

The second section describes the development of the Western Balkan irregular migration system, particularly the development of smuggling networks after the breakup of Yugoslavia and the attendant wars. States in the system are both sending and transit states, though generally not destination states since most irregular migrants use the route to pass to Western Europe. I focus specifically on the Western Balkan states given that Chapter 4 extensively covers the development of the Central and Eastern European system. I finish the section with a detailed narrative of the 2015-2016 migration crisis, paying special attention to the effects of European interventions and state burden-shifting.

The third section draws out the relationships between Schengen’s compensatory measures, changes in the system, and Malignant Europeanization. While European policy did not cause the crisis, reactions to it caused significant human insecurity, particularly from border closures and trapping migrants in dangerous conditions. Most importantly, my research highlights the counter-intuitive finding that Schengen’s solidarity mechanisms and the CEAS framework resulted in the most significant regional tensions and authoritarian retrenchment of all my cases. EU leaders and heads of state repeatedly called for both Hungary and Greece to lose Schengen membership given their
actions in the crisis. States in the system alternately used border closures, wave-throughs, and pushbacks in classic beggar-thy-neighbour actions.

Not only did solidarity mechanisms all but crumble under the weight of the crisis, they offered incentives for burden-shifting and a policy frame for democratic decline and anti-Brussels sentiment. These findings cast a pall on Europeanization from the 2004 and 2007 enlargements as the success story in European foreign policy and empirical exemplar of benign Europeanization in the academic literature. Norm degeneration was equally significant when understood against the benchmark of EU asylum laws and protection standards as the gold standard which it purports to diffuse to other regions as migration control mechanisms. The “closure” of the route relied not on EU solidarity, but cascading border closures, degraded protection standard, violent border pushbacks, and offering mobility and cash incentives for Turkey to stop migration flows which it allowed to pass through its territory.

7.2 Methods & Data

Original data from this case study is derived from six months on the Western Balkans route in Croatia, Hungary, Serbia, and Macedonia. My time in the Western Balkans coincided with the height of the 2015 migration crisis, including all the major and rather rapid changes in the system. Fieldwork was aided by the fact that the region is relatively small, allowing for quick access to new border crossings and discussions with migrants as they experienced the migration crisis.

I interviewed 62 migrants, the majority from Syria and Afghanistan (37 and 19 respectively). The remainder was from Iraq, Pakistan, and Somalia. This distribution matched the general representation in the migration system. Interviews focused on route choices and experience with facilitators, security services, and asylum systems. Fieldwork included extensive interviews with expert respondents from IGOs, NGOs, and government to understand policy reactions and relationships between policy choices and European influence. In Serbia I was able to speak with three smugglers, one in Belgrade and two on the border of Hungary in the town of Subotica.

I spent the majority of my time in Serbia given its role as a hub for the migration system. In addition, government officials were relatively easy to access, as opposed to those in Hungary, where despite sustained efforts on a number of fronts government officials often declined interview requests or
cancelled on short notice. Given the contemporary nature of the case a significant amount of primary data is taken from journalistic accounts and from frontline NGOs.

As with the other cases, I subtended my fieldwork with a research trip to Brussels. Being in Brussels at the height of the crisis led to rather frank and frankly pessimistic conversations with Commission and Council personnel. As in other cases, data on overall flows relies on Frontex and UNHCR. Data on human security of migrants, corruption, and other malignant Europeanization variables are derived from fieldwork and other secondary sources given Frontex and UNHCR’s political limitations in reporting on these issues with partner states. Overall, the case has the advantage of much more comprehensive and trustworthy data collection in relation to the other cases in the project.

7.3 Irregular Migration and Differing Incentive Structures

7.3.1 The Development of the Western Balkan Irregular Migration System

The Western Balkan irregular migration system is comprised of a mix of sending and transit states. Its development was inextricably tied to the experiences of the end of the Cold War and the violent dissolution of Yugoslavia. In the lead-up to the 2015 crisis a significant proportion of people on the route and who claimed asylum in Europe were minorities from Serbia or Muslims from Kosovo. During the crisis the overwhelming number of migrants transited through the system from outside Europe.

During the Cold War, citizens of Yugoslavia enjoyed freedom of travel to Western European and Soviet bloc states given the state’s position in the Non-Aligned Movement. During the 1990s migration in the region was dominated by refugee and IDP flows from the breakup of Yugoslavia. Roughly 2.3 million people were displaced by the wars. By 1996 there were 550,000 refugees from other former Yugoslav states in Serbia and Montenegro.

During the Balkan wars, particularly for Bosnian refugees between 1992 and 1995, and Kosovar refugees in 1999, the EU established a series of ad hoc measures which would come to be codified in the “Temporary Protection Directive” designed to promote “solidarity and burden-sharing among EU
States with respect to receiving large numbers of potential refugees at one time.” Hungary hosted over 50,000 refugees in 1991 alone when the migration and asylum system in the country was virtually non-existent. EU states implemented major return programs after 1997 when the region was deemed safe. Germany was the first country to lift temporary protection, returning 300,000 Bosnians, soon followed by other Member States, resulting in the return of 700,000 people. 841,000 refugees were returned after the war in Kosovo. By 2001 there were 750,000 refugees worldwide from Bosnia, many of whom were in Germany and Sweden. By end of 2003 the UNHCR estimated 600,000 IDPs and 300,000 refugees remained in the region.

Shrinking, corrupt, and dysfunctional states gave rise to significant self-help behaviour in all strata of society across the Western Balkans. The region was the site of significant drug, weapons, and commodity smuggling. As in the other systems, these overlapped with human smuggling and trafficking for labour and sexual exploitation (Friman & Reich 2007). In 2001 the IOM estimated 120,000 women and children were trafficked through and from the region every year. The region became the major hub for trafficking from South Asia and the Middle East into the EU with a “symbiotic relationship” between all types of smuggling (Hartmann 2012). The UNODC commented on the “wide-spread and enduring collusion between politics, business, and organized crime” in the region, with heroin and people trafficking providing the highest profits (2008).

Bosnia became a major transit point for irregular migration into Europe in the immediate post-war period. Visa free status for Islamic countries, a vestige of support for Bosnia during the civil war, meant a significant proportion of migrants could land in Sarajevo and move across land borders into Croatia and Slovenia. Likewise, in addition to smuggling migrants from Serbia itself, Belgrade was a transit point for smuggling people from East Asia, particularly China.

After the 1990s the Balkans became a key locus for transnational organized criminal markets which were “more organized than the police” (Antonopoulos 2008: 318). Smuggling and trafficking rings received a boost in market incentive from the 2004 and 2007 enlargements given that the region was now surrounded by EU states, with significant collusion of security services and high level

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corruption throughout the system (Shelley 2014). The UNODC notes that tightened border controls from pre-accession Schengen Europeanization gave rise to more market demand for smuggling (2008). Hungarian border guards reported that while in 1990 an estimated 20% of irregular migrants used smugglers, by 2005 the figure was closer to 70% (Futo et al. 2005). Across the region, particularly in Romania, Bulgaria, Serbia, and Albania, newly-emerging criminal groups were comprised of government officials and former security services (UNODC 2008). The Milosevic regime allegedly gleaned 50% of the profits from the smuggling rings using Belgrade as a transit hub (Mavris 2002).

Before end of Cold War out migration from most countries in the system was prohibited, though the 1990s saw a mass, one-way migration from Bulgaria and Romania to Europe and North America. Approximately 350,000 Turkish minorities left Bulgaria after 1989, and educated Bulgarians left to Western Europe and North America. As In CEE states, states in the Western Balkans began to see new minority and migrant groups from Asia and the Middle East.

Turkey plays an important role in the system as a transit country for migrants from across South Asia, the Middle East, and increasingly from Africa. Respondents from Frontex and ICMPD I interviewed in Warsaw and Vienna in 2013 argued that Turkish visa liberalization policies and expanded flight networks to Africa and South Asia meant the significant expansion of the route. Since 2012, Turkey has dropped visa restrictions for countries throughout these regions, coupled with Turkish Airlines’ expansion into Africa, which “makes travelling to Turkey increasingly easy and cheap for those Africans who travel with the intention to subsequently enter the EU irregularly and continue further through the Western Balkans” (Frontex 2013: 16). Turkey’s strategic role as an irregular migration hub is a crucial component of the 2015 migration crisis and its aftermath. As a respondent from DG Home in Brussels told me “The Turkish will make themselves indispensable for protecting Schengen. It’s a political game and we’re well aware. But all the interactions [between the EU and Turkey] have to be diplomatic and framed in terms of capacity building.” As one respondent from Frontex argued “The Turkish Airlines expansion is a significant source of pressure for [the EU]. They are trying to expand their role as a regional power, but some people in the Council believe it is a way of putting pressure on us […] They increase their attractiveness and flight schedules and they get an extra piece of leverage in accession talks.”

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188 Interview with Commission personnel (DG Home). Brussels, June 2013.
189 Interview with Frontex personnel (Risk Analysis). Warsaw, July 2013.
Weak states, poor economic performance, high unemployment, and discrimination against minorities, particularly Roma, mean the Balkans remain significant source region for unfounded asylum claims in Europe. Slovenia and Hungary’s accession to the EU made Croatia a more significant transit country, though the bulk of irregular migration flows into Europe continued to move through non-member states into Hungary.

7.3.2 EU Priorities and Programming

The Western Balkan region has significant strategic and geopolitical importance for the EU and was an early site of Schengen’s external compensatory measures in the immediate post-Cold War period. As described in Chapters 2, 3, and 4, the Edinburgh Declaration emphasized uncontrolled migration and instability at Schengen’s external borders as the preeminent concern for development of the European project. On 10 June, 1999, the EU and Member States signed the Stability Pact for South East Europe, which launched the regional Socialization and Association Process (SAP) for funding and close cooperation with Western Balkan states. The SAP was a recognition of the region’s recent history and the need for the EU to play a stabilizing role. The SAP included bilateral Stabilization and Association Agreements (SAAs), essentially open-ended pre-candidacy agreements, offering Western Balkan states “potential candidate” status given SAP and Copenhagen Criteria were met.

While each country would negotiate their own SAA, the SAP dictated all states had to agree to regional rapprochement as a pre-condition for eventual candidacy (Trauner 2009b). And while conditionality was a key part of the CEE enlargement, it was confined to the narrower accession process. In the Western Balkans, deep conditionality was applied at much earlier stages of the pre-candidacy period (Economides & Ker-Lindsay 2015). Each SAA included the requirement to fully cooperate with the International Criminal Tribunal for the Former Yugoslavia (ICTY) in The Hague and reorganize border controls along the EU’s Integrated Border Management (IBM) framework. This included twinning projects with Member States in order to transpose European border practices. It also meant the countries in the region would sign readmission agreements and adopt EU-wide visa lists.

The EU offered the SAP and SAAs’s despite the fact that they were struggling with the current membership queue. Path dependency inside the EU institutions resulted in what Friss & Murphy
(2000) referred to as “turbo-charged negotiations”. The region also served as a test ground for Europe’s credibility as a serious and effective foreign policy actor. SAAs came into force in Macedonia in 2004, Croatia in 2005, Albania in 2009, Bosnia in 2010, Serbia in 2013, and Kosovo in 2016. Thus SAA’s were in place for all relevant states in the 2015 migration crisis, giving the EU significant leverage over state responses.

Much like the European Neighbourhood Policy (ENP), SAAs were modeled on accession conditionality. They represented a process of “accession lite” (Phinnemore 2003) but a “Copenhagen plus” given their normative content around regional rapprochement and compliance with war crimes investigations (Schwarz 2016). 1999 was the same year as the formulation of the Schengen *acquis* and Amsterdam, thus the Schengen border code was included as a prerequisite for signing SAAs. As described in Chapter 4, the period was characterized by the “hyperactive” development of the Commission’s JHA policies (Grabbe 2005). Indeed, stability in the Balkans and the externalization of JHA programming were a crucial aspect of addressing “soft” security threats around irregular migration, organized crime, trafficking, and mass influxes (Trauner 2009b). While framed as a moment of normative leverage, the supply-side of engagement and policy focus on JHA issues illustrates the fact that engagement was driven by strategic concerns (Stahl 2011).

Demand-side engagement was likewise driven by concerns over mobility and borders. All Western Balkan countries were on the EU visa “black list” after the 1999 Amsterdam Treaty, and the cost of visas and processing was the equivalent to a month’s salary (Trauner 2009a). The 2004 and 2007 enlargements and the prerequisite for accession states to adopt the EU visa blacklist meant that the Western Balkan were hemmed by states for which they now required visas. Citizens were considered “undesirable illegal immigrants, a threat to public security, and not important for [accession states’] international relations” (Jileva 2002: 78-79). Mobility rights took on a particularly high domestic political salience, particularly given that citizens of Yugoslavia had enjoyed unparalleled access to both Western Europe and Warsaw Pact states.

Through the SAAs, the EU relied on what Trauner calls “policy conditionality” rather than overarching membership conditionality – particularly visa liberalization in exchange for compliance around JHA issues and the Schengen *acquis* – “a more relaxed visa regime in exchange for signing readmission agreements, tightening border controls [and] aligning domestic visa policies” (Trauner 2009b: 778). Border security, mobility, and asylum are at the core of the EU’s external JHA
programming in the Western Balkans, and serve the dual purpose of integrating Western Balkans states into the Schengen approach and protecting the internal Schengen area (Collantes Celador & Juncos 2012).

The 2003 Thessaloniki Agenda, a product of the first EU-Western Balkans Summit, first floated pre-accession visa-free status for the region. It offered the familiar CEE promise that “the Future of the Balkans is within the European Union,” and encouraged Western Balkan states to follow “the same successful path” as the CEE states on the eve of succession. Among a host of other governance, rights, and regional rapprochement conditions, it explicitly tied mobility rights to JHA conditionalities. Its conclusion read:

The EU is aware of the importance the peoples and governments in the Western Balkans attach to the perspective of liberalization of the visa regime. Meanwhile, progress is dependent on these countries implementing major reforms in areas such as the strengthening of the rule of law, combating organized crime, corruption and illegal migration, and strengthening their administrative capacity in border control and security in documents.  

The subsequent 2006 Enlargement Strategy set new, more concrete benchmarks for opening acquis chapters for negotiation. The Commission’s yearly Progress Reports, broken down by specific chapters, are the basis on which the Council decides whether or not it will grant candidate status.

SAP funding was originally offered through a series of funding instruments, including the Community Assistance for Reconstruction, Development, and Stabilization (CARDS) to fund capacity building toward opening chapters. As with PHARE programming in the CEE states, early projects focused on borders, migration, and asylum capacity. After 2006 all funding instruments were combined under the Instrument for Pre-Accession (IPA). After the 2009 Lisbon Treaty and the creation of the European External Action Service (EEAS), Commission and Council accession activities would be coordinated through Delegations in candidate states. As with the CEE states, Schengen’s compensatory measures, particularly judicial reform, asylum and migration capacities, and Integrated Border Management were at the fore of the relationship (Trauner 2009a; Economides & Ker-Lindsay 2015). “Chapter 24,” the JHA portion of the EU acquis, was the first to be opened for each Western Balkan state.

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SAAs were stalled several times in both Croatia and Serbia given domestic political dynamics (described in detail below) and the failure to comply with the ICTY portions of the SAP. For example, though the Commission agreed to open an SAA with Serbia in 2005, the enlargement commissioner made it clear that delivering the war criminal Mladić was a binding prerequisite for its ratification. The SAA was suspended again given bargaining over Kosovo from the 2007 elections until the unilateral declaration of independence in 2008. The EU and Serbia eventually ratified the SAA and offered visa-free status in return for compliance on the situation of Kosovo and the ICTY.

The Western Balkan system includes Member States and Turkey. While I focus on non-Member states in the Western Balkan region, it is worth noting again that Bulgaria, and to a lesser extent Romania, represent instances in which accession did not curtail endemic and high level corruption and collusion with well-established domestic and transnational organized criminal networks. Romania and Bulgaria were significant targets for PHARE and twinning programs around trafficking, border control, and irregular migration. Neither Bulgaria nor Romania has reached the level of reform to be considered for full Schengen membership. Since accession in 2007 both states have remained under Commission observation through the Cooperation and Verification Mechanism, which assess judicial reform, the fight against corruption, and the fight against organized crime.

However after accession the Commission exercised far less control over compliance around JHA issues in CEE states. The lack of leverage is important for the case of Hungary, where the government leveraged the migration crisis to consolidate control over institutions, and garner electoral support by linking anti-Brussels and anti-refugee sentiment. The situation in Greece is perhaps even more complicated. As a Member State and part of the Schengen area, it was ostensibly responsible for external border controls. And while it fenced off its land border with Turkey in 2013, during the migration crisis it followed a wave-through policy for just under a million migrants. Despite sustained efforts, the EU and Member States had very little success in persuading the Greek government to contain irregular migration flows until a cascading set of border closures and truncated visa lists, coupled with the deal with Turkey, effectively closed the route.

The prospect of enlargement to the Balkans was seriously hampered by the Euro crisis and the Greek debt crisis, coupled with post 2004 and 2007 “enlargement fatigue” on the side of EU Member States and “evaluation fatigue” on the side of the Western Balkan pre-accession and candidate states (Panagiotou 2013). Concerns over free-riding poorer states and the admission that the Romanian and
Bulgarian accession had been premature were borne out in the 2011 Eurobarometer which found only 35% of citizens overall favoured further enlargement (see also Toshkov & Kortenska 2015). Regardless, Member States and EU institutions “still see enlargement as a matter of national interest because it brings net economic and geopolitical benefits over the long term” (Vachudova 2014: 123). As we will see below, the 2015 migration crisis changed these dynamics and opened the door for Western Balkan states, the EU, and eventually Turkey to reinvigorate accession given their pivotal role as transit states in the crisis.

In 2014, the newly-nominated Commission President Jean Claude Juncker announced a five-year moratorium on enlargement in order to focus the Commission on consolidating the European project. He specifically cited the Balkans and the need for a longer period of engagement before the potential to offer membership after Croatian accession in 2013. Juncker’s election signaled a reshuffling of the Commission, with an even more robust emphasis on JHA priorities and irregular migration. Three new Commissioner’s offices were created to focus on the Area of Freedom, Security, and Justice; building solidarity; and protecting free mobility in the Schengen project through a focus on solidarity on external borders and migration control. Dimitris Avromopoulos was named Commissioner for Migration and Home Affairs; his nationality a signal of the focus on solidarity, asylum, and the common interest in managing external borders (Carrera & Guild 2014). The new arrangements in the Juncker Commission were an institutional manifestation of the relationship between Schengen and its compensatory measures.

7.3.3 Compliance and Europeanization

While the Western Balkans have no doubt undergone domestic change through EU engagement, compliance falls far below the standards of norm internalization and deep institutional reforms generally implied by benign Europeanization (see Börzel & Risse 2017; Kmezić & Beiber 2017). The significant challenges for Europeanization should be understood against the breakup of Yugoslavia and the particularly destructive wars, ethnic cleansing, and state capture by elites, warlords, and criminal elements. Limited statehood meant Europeanization faced “formidable scope conditions” (Börzel 2011). The challenge of rule of law reform in the Balkans is more significant than in the previous CEE states “because the EU’s anti-corruption and rule of law agenda runs against the interests of political elites who have captured parts of the state” (Grabbe 2014: 49).
Indeed, analysis of Europeanization in the region must necessarily include domestic socioeconomic and political conditions (Vachudova 2014).

In the Western Balkan states, the EU started negotiating the most difficult issues first, particularly the JHA chapter of the *acquis*, in order to gain the most significant leverage over the longest period. In the almost 20 years of engagement, IPA funding and pre-accession criteria have resulted in significant institutional reforms. The region is still characterized by vote-buying, corruption, and biased media in favour of incumbents. Relatively strong official compliance with JHA conditionalities does not equate to benign Europeanization (Trauner 2009a). In short, the “EU integration context has not been able to effectively counter non-democratic tendencies including outright democratic rollbacks” (Kmezić & Beiber 2017: 13). Compliance with institutional reform has often been skin deep and easily reversible.

As in the CEE states, engagement often meant the potential for retrenchment. According to Elbanassi & Šelo Šabić “the embrace of EU integration more often than not went hand-in-hand with the political exploitation of a deep-rooted system of rents and spoils,” with evidence of state collusion with organized crime (2017: 9-10). High-level corruption and petty bribery are still endemic.\(^{191}\) Indeed, as Noutcheva argues, “Compliant outcomes are more the result of the EU’s strategic leverage than of voluntary submission to the EU’s normative power and are vulnerable to reversals in the short run” (2009: 1066). However, this is not to say that “progress” toward European-level governance is entirely absent. The six Western Balkan states are instead experiencing a mix of reforms and stability, coupled with patterns of democratic decline, entrenched clientalism, and autocracy – what Kmezić and Bieber call “Stabilitocracy” (2017).

Member States in the system, which overlap with the CEE system described in Chapter 4, are likewise experiencing significant democratic rollbacks and the EU now enjoys few, if any, positive incentives for leveraging compliance. Indeed, recent years have shown that the transformative power of Europe was prematurely diagnosed. While Hungary complied with pre-accession Copenhagen Criteria, formal institutions were not supported by robust civil society or the social embeddedness of the Copenhagen Criteria. It is exhibiting signs of “de-Europeanization” and “de-democratization” (Ágh 2016). Indeed, once the “golden carrot” of membership was removed as an incentive for

reform, politicians were able to fundamentally change course by capturing institutions and repressing civil society.

Democratic backsliding casts doubt on claims for Europe as a truly transformative power in the CEE and newer Member States (Börzel & Schimmelfennig 2017). For instance in Croatia, the accession period opened significant space for civil society and advocacy around rights and rule of law, their period of leverage was limited and were significantly truncated after accession (Wunsch 2016: 1200). In 2016 the European Court of Auditors revealed that it had opposed Romanian and Bulgarian accession in a formal report to the Commission in 2006. The report was released in 2016 when seeking a “meta-audit” of the Western Balkans to avoid the same mistakes, arguing that all the Western Balkan states exhibited “weak administrative capacity” and a “lack of political will to reform institutions.”

**Compliance Fatigue**

However, the Balkans’ geopolitical position and its role as a source of potential threats to Schengen compelled the EU toward offering potential accession from the outset. The EU faced a choice between truly robust state and institution-building, and an interminable pre-accession period of short-term reform projects which risked eroding domestic support for engagement with Europe. Governmental, academic, and IGO respondents in the Balkans, and from the Commission and EEAS in Brussels argued that domestic support for accession was not guaranteed, and that Russian and Turkish influence across the region presented a major geopolitical impetus for potentially relaxing and politicizing progress evaluations.

The Juncker Commission’s focus on consolidating the European project and moratorium on enlargement were not without their political costs in the Western Balkans. Indeed, fifteen years of pre-candidacy reform have resulted in significant compliance fatigue, compounded by supply-side reluctance from the EU, making it unclear when, if ever, the Western Balkan states will accede (Trauner 2009b). A sitting politician from the Serbian government, who I spoke with on condition of anonymity, summed up the sentiment in Serbia (and to a certain extent the rest of the region) rather eloquently, and is worth quoting at length:

192 Gotev, Georgi. 13 September, 2016. “Romania and Bulgaria were Not Ready for Accession, EU Auditors Confess.” Euractiv. Available at: https://www.euractiv.com/section/enlargement/news/auditors-romania-and-bulgaria-were-not-ready-for-accession/.
There is a real fear among the pro-Brussels camp of Russia stealing the show by supporting nationalists and offering more favourable terms. (Think about China in Africa. “You can have all the infrastructure projects and none of the human rights lectures”). But the real effects are on the people. Russia says: the EU is going to tell you to give up your faith, give up your rakića [artisanal fruit brandy], your cevapi [meat kabob] will have to be standardized by Frenchmen in Brussels, treat Muslims from Kosovo and Bosnia as fellow Europeans, you can’t be proud of Serbia […]. all so your children can move away and become Europeans and send you money because you can’t access your pension. Russia offers the opposite of all of this: national pride. EU expansion [to CEE states after the Cold War] was easy because there was no competition. But right now the EU is weak and Russia is ascending. That is what is at stake in the migration crisis, not European solidarity or Merkel’s legacy or any of the things that they talk about in Brussels. It’s how long waiting at the door of Europe will diminish the pride of the people. Even the liberal students and activists are thinking this way. They like human rights and freedoms, but they also see the damage of waiting forever to join. How long will we accept begging for scraps?193

As discussed in the following section, compliance with the EU during the migration crisis was often met with remarks about playing the role of Europe’s gatekeeper for little return on investment.

In the external incentive model of Europeanization discussed in Chapters 1 and 4, membership incentives must outweigh domestic costs for compliance (Schimmelfennig & Sedelmeier 2004). In the Western Balkans, domestic costs are mediated through the intervening variable of strong and often antagonistic national identities (see Freyburg & Richter 2010). Indeed, in conversations with academics, students, and politicians throughout the Balkans, people consistently wondered at how long domestic political support for open-ended reforms would be sustainable against the backdrop of nationalism, youth unemployment, corruption, neoliberal privatizations, and growing inequality.

During the first decade of the SAP, the EU backed liberal and reformist parties, which led to either the transformation or ouster of spoilers and radicals and the emergence of a general elite consensus on Balkans’ destiny in Europe. Despite elite sentiment, the EU did not have the same popular symbolic meaning in the Western Balkans as in the CEE states (Börzel & Schimmelfennig 2017). Current EU leverage tends to support incumbents rather than empower opposition parties (Kmezić & Bieber 2017: 51). SEIO, the Serbian government department for interacting with the EEAS Delegation on Chapter negotiations and IPA programming, found that 57% of citizens favoured membership for purely economic reasons, rather than the feeling that Serbia was “part of Europe” or that Kosovo’s independence and the passing of war criminals to The Hague was normatively

193 Confidential Interview with Serbian Government Politician. Belgrade, October 2015.
appropriate (Economides & Ker-Lindsay 2015). Mistrust and alternate visions for the Balkans’ future thus cast doubt on longer pre-accession engagement in the region as a strategy for Europeanization.

The Commission’s Progress Reports serve as both a benchmarking exercise and a political tool for signaling progress toward accession. As a principal for a Belgrade consultancy for IPA programming told me, “the Progress Reports should show that the reforms are going well overall. There is obviously room for criticism and public shaming, but it doesn’t pay for the EU to show they can’t have and influence over backward states who want to be part of Europe.” Indeed, support for reformist agendas through IPA and benchmarking have often shied away from addressing democratic deficits in favour of facilitating the EU’s JHA priorities. As a high-level respondent from the EEAS’s Western Balkans branch in Brussels told me:

> Progress Reports are independent of politics, but only to a certain degree. They are very powerful documents for setting EU priorities, but they are also the product of negotiations between the Commission, Council, and governments. If there is trouble in a state and anti-Brussels groups are agitating [...] a positive Progress Report can support the reformists. For instance in the Ukraine right now they are about to release a Progress Report. You can imagine that given the situation it would be helpful if they were moving closer to Europe. The same has been true in the Balkans for almost two decades.  

The region has shown strong formal compliance with JHA priorities (Trauner 2009a), an area where the adoption of new asylum laws, signing readmission agreements, and implementing Schengen IBM strategies represents a relatively straightforward benchmark for progress.

**Compliance on Borders & Mobility**

Western Balkan states developed asylum and migration systems as a result of interactions with the EU, though they did not experience the same direct transposition of EU asylum acquis through the accession process as in the CEE states. Instead, reforms were undertaken piecemeal in exchange for mobility rights. By the mid 2000s EU funding mechanisms and UNHCR expertise had been mobilized to set up asylum centres in each of the Balkan states. As was the case with the Schengen code and CEE enlargement, Western Balkan states adopted EU reception and return criteria while the CEAS was still under negotiation. In this sense the development of asylum procedures was a moving goal while at the fore of the EU agenda in the region. Given the domestic political salience of visa-

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194 Interview with EEAS Personnel (Western Balkans). Brussels, November 2015.
free status, the moving goal of compliance often lead do domestic political frustration given that states were locked into the relationship. As recounted by Vachudova:

The promise of EU membership for candidate states was summed up by the Slovak Foreign Minister Miroslav Lajčák when addressing his Serbian counterparts in September 2012. He explained that Serbia was very fortunate to have the EU perspective, and that it should not dwell on whether or not the requirements are ‘fair’. The acquis is a complex, moving target, but it is not designed that way to thwart candidate states; rather, it is a reflection of the EU’s ongoing integration. (2014: 128)

As is evident in the 2014 recalibration of the Commission and moratorium on enlargement, changes in expectations were a reflection of intra-EU politics and crises.

While CEE states had to build border and migration policies from scratch, the immediate post-Cold War period meant significant domestic support for seeking membership and “returning to Europe,” with an obvious time-frame for accession (Grabbe 2014). The Western Balkans states started from the position of uniquely brutal civil war characterized by massive forced displacement and ethnic cleansing. The scale of change for Western Balkan states to make the EU’s visa white list was quite vast (Collantes Celador & Juncos 2012: 203). The Ohrid-Process, enacted under the Stability Pact, brought together the EU, NATO, OSCE, and Member States to work with Western Balkan countries to promote adoption of Schengen standards of border controls. Integrated Border Management (IBM) was one of the first agenda items for the Commission in each of the Western Balkan states.

In 2005 Turkey adopted a new article in its penal code specifically for compliance with the Schengen acquis, for the first time criminalizing smuggling and setting stiff penalties, and implementing an Action Plan on smuggling and trafficking in line with EU recommendations, twinning projects with Member States and the IOM on border management, and readmission agreements (see İçduygu and Akcapar 2016). In 2006 Macedonia adopted a new “Law on Foreigners” as part of its SAA, with a common visa list and stiffer penalties for smuggling and irregular migration. It did not include integration mechanisms. In 2012 Macedonia became a candidate country, signing a “High Level Accession Dialogue” which included a commitment to bring the country’s asylum laws in line with the CEAS. The 2007 Asylum law in Serbia likewise did not account for integration, and was a direct transposition of the EU acquis on reception standards which was adopted along with a readmission agreement in exchange for visa-free status (Lukić 2016). Stahl argues that in Serbia the EU created a moral hazard in that only sustained incentives will compel Serbia stay on the EU track (2011: 486). Rather than offering mobility as a reward for compliance, it instead offered mobility incentives in order to remedy non-compliant behaviour around cooperation with the ICTY, the Kosovo issue, and
to support pro-European parties in elections. The Euro crisis and Greek debt crisis resulted in a “de-Europeanization” of migration policies in Greece. While Greece officially transposed asylum and return directives after the recast CEAS in 2011, elites and policymakers effectively resisted their implementation (Triandafyllidou 2014).

While formally compliant, new asylum systems in the region had significant capacity gaps in police training, interpretation, refugee status determination, and differentiating between types of people in mixed migration flows. The lack of capacity was readily apparent during fieldwork at the height of the migration crisis. As a respondent from a Serbian NGO established to integrate refugees from the Balkan wars, but which had mobilized around the refugee crisis, told me: “Serbia has yet to fully integrate refugees from the [breakup of Yugoslavia]. The state structures are simply too weak and the money is not there.” While by 2015 all states in the system had IBM strategies, asylum systems and registration procedures served to facilitate onward movement. As a respondent from the OSCE in Belgrade argued,

> If you read the Progress Reports it would have seemed like the [reception] capacities were good. Chapter 24 is tough and very technical, but it’s easy to measure. More trainings, more reception centres, EURODAC machines, border surveillance teams, anti-corruption task forces in the police. Practice shows that eventually what the Commission wants, the Commission gets. The real question is whether it all translates to capacity. [The migration crisis has shown] that while Serbia and Macedonia want to show that they are ready to be European, the capacity is still below expectations. Then again, Greece is a Schengen member and their capacity and political will are basically nil.¹⁹⁵

Fundamentally, the migration crisis illustrated that asylum systems in the Western Balkans were “’Potemkin-like’, giving an illusion of comprehensive protection systems that are complicated and difficult to manage” (Kogovšek Šalamon 2016: 160). Indeed, in the year and a half since the crisis they have altogether failed to integrate migrants, instead trapping several thousand in unsafe conditions and re-energizing smuggling rings to circumvent closed borders into Schengen.

### 7.3.4 Effects of Compensatory Measures on Irregular Migration Systems

While irregular migration through and from the Balkans had increased steadily since the end of the Cold War, the closure of the Central Mediterranean, the Syrian civil war, and the lack of reception and integration capacities in Middle East host states generated novel irregular migration pressures.

¹⁹⁵ Interview with OSCE Personnel. Belgrade, August 2015
From an analytic perspective, the 2015 crisis offers a clear chain of events, triggered by European responses to the migration crisis, which fundamentally altered the Western Balkan irregular migration system. The system includes Member States, candidates, and pre-candidates, offering the opportunity to examine Europeanization on states over which the EU exercises different forms of leverage.

The Western Balkans was both a sending and transit region in the lead-up to the crisis. Visa-free status for Western Balkan states resulted in significantly higher irregular migration from the region, either through overstaying or through rejected asylum applications in Western European Member States. Roughly 60,000 irregular border crossings into Schengen were detected in the system over 2009 and 2010. The vast majority (80%) were nationals of Western Balkan states arriving in Hungary or Slovenia across green borders to move on to claim asylum in Western Europe. Most were Roma from Serbia and people from Kosovo and Albania.

**Shifting Routes**

The majority of irregular migrants from outside Europe crossed the 30km Turkish / Greek land border. During this period, the EU and Member States were particularly concerned with controlling unfounded asylum claims originating in the Western Balkans as opposed to migration from Turkey. As a UNHCR official in Belgrade recounted “The Commission wants well-functioning readmission policies in place. For some time before the crisis it was the foremost goal when it comes to mobility and asylum vis-à-vis the Balkans. Germany accelerated domestic asylum procedures so they can send back Roma and Kosovars.”

Unfounded asylum claims from the visa-exempt countries rose 53% from 2011 to 2012, with Serbian nationals accounting for 15,900 (6% of total) asylum applications in the EU (Frontex 2013).

After 2010 the system began to exhibit signs which, in hindsight, foretold the upcoming crisis. The Greek / Turkish land border saw significantly more crossings. By 2012 Greece for the first time accounted for the majority of irregular crossings into the Schengen area, overtaking the Central Mediterranean route given both an overall increase in the system and the decline in crossings after the Italy / Libya Friendship Pact and subsequent toppling of Qaddafi. Migrants transited through Greece, Macedonia, and Serbia, entering Hungary over green borders or hidden in passenger

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196 Interview with UNHCR official. Belgrade, September 2015.
vehicles. Migrants were from Afghanistan, Pakistan, Algeria, and Somalia, with Syria ranking fifth of all non-Balkan nationals.

The beginning of 2012 saw a 50% increase in the use of the Eastern Mediterranean and Balkan routes over the same period in 2011. Ninety-six percent of detections were at land borders between Turkey and Greece (Frontex 2012). Crossings peaked at 7,000 in July (Frontex 2013). Frontex referred to Greece as a “Schengen exclave” given that all migrants who entered were then detected leaving the Schengen area to move through the Western Balkans route and claim asylum in Western Europe (2012: 6). In August Greece, in cooperation with Frontex, constructed the first of the region’s razor wire fences on its land border with Turkey and stepped up patrols on the Evros River. Detections on the border fell from 60% to 2% of all entries into Schengen by 2013.

Flows from Turkey shifted to boat crossings on the Aegean and land crossings at green borders to Bulgaria. Aided by organized smuggling rings, the Bulgarian and Greek routes converged in Belgrade and then moved on to border towns near Hungary in Vojvodina region. However, movement was also significantly facilitated by new Serbian asylum laws (based on the EU acquis and quickly copied by Macedonia) which allowed for a 72 hour window between lodging intent to apply and formally claiming asylum. As Kogovšek Šalamon argues, “The fact that refugee status determination procedures are available is in sharp contrast with the reality of the aspirations of migrants, who are not interested in applying for asylum in these countries; they use the asylum systems […] as a vehicle to help them reach their final destinations in Western Europe” (2016: 152).
In effect, Schengen-compliant asylum systems facilitated transit migration as the intention to apply for asylum acted as de facto *laissez passé*.

**The Emerging Crisis**

2013 saw a sharp increase in green border crossings to Europe and an emerging regional trend toward more violent and restrictive border policies. As the irregular migration flows expanded so did the proportion of migrants and asylum seekers from Kosovo and Albania, using smugglers to join the growing number of people transiting from Turkey. Citizens of Serbia, Kosovo, Bosnia, and Albania accounted for a total of 33,000 asylum claims in Europe in 2013, 97% of asylum claims for countries with visa-free access to Schengen.

Green borders into Schengen reached a record 40,000 detections, half of which on the Serbian / Hungarian border – a site with increasing significance for the emerging crisis. Hungary briefly reintroduced mandatory detention for asylum seekers, though a significant proportion of migrants who crossed the border likely did not apply for asylum and were facilitated by smugglers and corrupt border guards. As in the CEE system (of which Hungary was a part), irregular migrants claimed asylum when apprehended though generally absconded thereafter. Hungary stopped the practice under pressure from UNHCR and the Commission. Bulgaria likewise began systematic pushbacks into Turkey and enacted harsher detention policies. In June Bulgaria began construction of its own 30km border fence on the most-travelled section, sent an additional 1500 police and soldiers to the border, and announced cooperation with Frontex to build a comprehensive fence by 2015. While flows through Bulgaria continued, sea crossings from Turkey to Greek islands rose steeply as a result. In 2014 the number more than doubled to over 50,000 (ICMPD iMap: 2017).

Throughout 2014 international media began reporting on migrants sleeping in forests in Serbia and Bulgaria, and congregating in larger numbers around the train and bus stations in Belgrade and Budapest before moving on to Austria and Germany. Domestic and international NGOs and civil society initiatives began to converge on the crisis. By 2014 the majority of those now travelling on the route were from Afghanistan, Syria, and Iraq given increased out-migration from refugee situations across the Middle East and the reopened Central Mediterranean route for migrants originating in Africa.
For the first half of 2014 European media and political attention was firmly focused on the Ukraine crisis and the Russian annexation of Crimea, meaning little coordinated policy response for the growing migration crisis in the Western Balkan system. On June 26th, however, Jean Claude Juncker promised to work in closer collaboration with UNHCR and international organization in sending and hosting regions. Estimates on flows for 2014 range from around 50,000 (ICMPD) to 66,000 (Frontex), measured by movement across the Serbian / Hungarian border. However, these numbers account only for apprehensions and asylum claims. Asylum claims in Western Europe show that throughout 2014 roughly 200,000 migrants transited through the system to Europe.

Numbers skyrocketed in 2015. Frontex announced that over 700,000 people had crossed Schengen borders from January to September, though there is evidence that for the first period of the migration crisis Frontex was double-counting some on the route given that they first crossed a Schengen border into Greece, then again when they entered Hungary or Croatia. The potential for double counting on border crossings is borne out in conflicting UNHCR and Eurostat data on eventual asylum applications in Western Europe. Later analysis showed that by September roughly 150,000 migrants per month were passing through the route through Greece and Macedonia, or overland via Bulgaria, to converge in Serbia and onward to Hungary (UNHCR 2016).

Migrants on the border with Hungary congregated either in a disused brick factory in the town of Subotica and in a managed camp near Kanjiža near the border town of Horgoš, before crossing the green border to Röszke and on to the train station in Szeged and onward to Budapest. Migrants generally self-segregated between Afghans and Pakistanis at the brick factory and migrants from the Middle East in the managed camp. This border area came to be the site of significant and well-publicized clashes, violence, and abuse by Hungarian security services. On 17 June Hungary announced a plan to fence its entire 175km border with Serbia and began construction of processing camps near the border.

Calm seas meant crossings across the Aegean continued to climb throughout the summer. The Turkish coastal cities of Izmir and Bodrum became the major hubs for departures, given that the Greek islands of Lesvos and Kos lie only a few nautical miles off the coast. Smuggling rings operated openly, housed in travel agencies and insurance shops with regular operating hours. Boating

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shops, in regular times catering to tourists, were stacked with single-use inflatable boats and life jackets. 198

The Height of the Crisis

Late August and September were a pivotal period in the crisis and in Europe’s response. International media became fixated on tragedies and abuses along the route. On August 20th Macedonia briefly closed the border with Greece and declared a state of emergency, leading to demonstrations and violent clashes between security services and migrants. While Macedonia reopened the border three days later, respondents from Macedonian rights NGOs I interviewed in October noted the situation was markedly tenser from then on, with border guards using violence to urge migrants onward. The next day the bottleneck of 7,000 migrants crossed the border with Serbia, overwhelming the processing capacities in the town of Presevo where the Serbian Commissariat for Refugees had established an EU-funded transit and processing centre. 23,000 migrants crossed the Macedonian / Serbian border over the following two weeks.

On 28 August, in one of the grimmest episodes of the crisis, Austrian police discovered 71 dead migrants, including entire families, in the back of a sealed meat truck on a highway shoulder near the Hungarian border. The story was covered extensively by international media. It reinvigorated calls for orderly and humane movement through the system. 199 In June 2017 eleven men went on trial in Hungary (where the police determined the migrants had died), ten of whom were Bulgarian and who were led by an Afghan national. The migrants had likely paid smugglers in Bulgaria and had been put in the truck in Budapest. The episode signaled the predation on some migrants by organized criminal groups.

From 30-31 August Hungarian authorities barred migrants from boarding trains at the Keleti train station in Budapest, leading thousands to attempt to walk to Austria. Hungary introduced harsher measures for processing asylum seekers in closed camps on the Serbian border, began construction on the border fence, and suspended travel to Austria, claiming their decision was based on


requirements to register all asylum seekers under the Dublin regulations. By this point the migration crisis was reaching a fever pitch. Two days later, on 2 September, the image Aylan Kurdi, a Syrian toddler drowned on a Greek beach, galvanized world attention in a way that was unprecedented across other irregular migration systems.

Pull and Push Factors

In response to the Hungarian restrictions and growing media attention, Angela Merkel made her famous *wir schaffen das* – “we will manage” speech, announcing Germany would suspend Dublin returns to Hungary, and opened the door for the over 10,000 stranded migrants. The *wir schaffen das* episode played a crucial role in crisis and intra-European relations. A number of respondents from across the EU institutions and on the Balkan route I interviewed throughout my fieldwork argued that Merkel’s comments caused the crisis to escalate. Indeed, dozens of migrants I spoke with told me they were en route to Germany on Merkel’s personal invitation. I witnessed border guards in Macedonia, Serbia, Hungary, and Croatia urging migrants to “Go see Merkel” or “Go see Angela.” However, the claim that German policy and the suspension of Dublin caused the migration crisis ignores macro-level trends and the functioning of irregular migration systems. Not only had flows steadily increased before the announcement, but market dynamics meant potential migrants who had long stayed in Turkey and Iran elected to move. Rumors of quick and successful journeys, in addition to visa-free travel and easy flights to Istanbul from across Africa and the Middle East, fuelled the movement.

While an in-depth analysis of the refugee crisis in the Middle East is beyond the scope of this project, 2015 was inextricably tied to the Syrian Civil War and deteriorating conditions for refugees in the region. 12 million Syrians, more than half the country’s population, were displaced by 2015, including 4.9 million refugees hosted in neighbouring states. One quarter of Lebanon’s population were Syrian refugees.

There is a consensus among the humanitarian community that insufficient aid provision and protection gaps in the region, particularly Turkey, Lebanon, Iraq, and Jordan, was a major push factor for irregular secondary movement to Europe. In September 2015, Antonio Guterres, then the
head of UNHCR, argued that the UN’s humanitarian system was “broke and failing”.\(^{200}\) UNHCR’s operational coverage (the relationship between operational requirements and actual funding) dropped from 95% in 2008 to 60% in 2014. By the height of the refugee crisis the UNHCR’s Syria regional refugee response plan had only received 35% of a total need of $1.3 billion for supporting host countries. The UN Syria Regional Refugee Resilience Plan, which coordinated humanitarian relief among a range of agencies, received only 37% of a total need of $4.5 billion. The World Health Organization closed 184 clinics across Iraq. The World Food Program faced an 83% budget shortfall in Iraq, and dropped a third of refugees from its food voucher programme and halved the value of vouchers (down to $7 per month) for remaining refugees living outside camps in Jordan and Lebanon.\(^{201}\) UNICEF argued that a generation of children in the Middle East would forego basic inoculations. Cumulatively this meant the removal of subsistence programming for Syrian refugees.

Respondents from UNHCR, IOM, and MSF interviewed throughout my fieldwork in 2015 argued that funding shortfalls in the Middle East were the primary catalyst for the exodus to Europe. However, as with all irregular migration systems, once a major route opens the system develops a significant path dependence given lower barriers to entry, market logics, pull factors, and chain migration. The majority of migrants I interviewed during my fieldwork said they were compelled to join the flow because of the German open-door policy, though their catalyst for the decision to move was concern about the long term viability of their chances in host countries in the Middle East. Migrants I spoke with from Afghanistan, Pakistan, and Africa saw the open door to Europe as a time-sensitive opportunity to move.

**Restrictive Compensatory Measures**

The scale of the crisis, domestic political backlash, and burden-shifting compelled more restrictive asylum policies inside Europe. On 14 September Germany reinstituted border controls with Austria in order to effectively register migrants, prompting Austria to do the same with Hungary, sending regular army units to the border. On 15 September Hungary completed its border fence with Serbia. The next day it announced it was closing the border, new legislation criminalizing all irregular crossings, and almost universal pushbacks to Serbia. The immediate effect was to push the flow of

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people the Serbian / Croatian border at another green crossing near the main border crossing in the town of Šid, at Berkašovo (Serbia) / Bobska (Croatia). For the first days the border remained unmanaged, and people continued to move through Croatia to Hungary. By 18 October Hungary had sealed the border with Croatia, which then pushed the entirety of the flow to Slovenia.

Slovenia initially announced it would only allow 2,500 people through per day, despite the fact that upwards of 6,000 per day were transiting from Serbia to Croatia. The result was a major bottleneck at the Berkašavo / Bobska green border crossing. By this time the Serbian state was transporting migrants directly from Preševo on the Macedonian border to Berkašovo in an attempt to move them through the country quickly and avoid migrants from congregating around the bus station in Belgrade, though a large number of Afghan and Pakistani migrants still made use of the area given they used different smuggling rings operating through Bulgaria.

The number of migrants in the system continued to climb. A record 210,000 people crossed the Aegean in October 2015, the same for the whole of 2014 (UNHCR 2014; ICMPD 2015). On 5 October the first public reports emerged about Turkish leader Erdoğan meeting with EU officials about Turkey’s role in the crisis. The scale of the flow moved through the system. On one day alone, 18 October, 12,000 migrants crossed the Croatian / Slovenian border, captured in the now iconic image of police leading a large group of refugees across farmland. The UK’s Nigel Farage used the image as a backdrop in his Brexit campaign with the phrase “Breaking Point” emblazoned across it.

On 25 October heads of state from region, and heads of the Commission, Council, EASO, UNHCR, and Frontex met at the Commission headquarters and released a 17 point action plan. The main thrust of the plan was to help facilitate orderly transit through closer cooperation, prior notification of arrivals at borders, and to register all migrants and end wave-through policies (see Kogovšek Šalamon 2016; MSF 2016). The reaction was spurred by the desire to limit the impacts of Hungary’s border closure and limit the potential for conflict between Western Balkan states, whose weak capacity was now readily apparent (Weber 2017). The plan called for a “gradual easing” of the flows and finalizing the now public negotiations on the EU-Turkey Action Plan. From the closure of the Hungarian border until 10 November 345,466 migrants, an average of 6,853 per day, crossed the

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Slovenian border. On 11 November Slovenia announced it would begin construction of a fence on its border with Croatia in order to facilitate orderly movement and stop people from river crossings. Throughout November Sweden, Austria, Germany, and Switzerland announced stricter asylum laws and reduced access to social services.

On 15 November Serbia and Croatia began to cooperate to transport asylum seekers from Šid in Serbia to the newly-opened Slovonski Brod transit camp in Croatia where they were registered, put through security checks, and transported by train to Slovenia and onward to Austria. Direct transport, information sharing with Serbia, and efficient processing was meant to keep Croatian cities and towns from experiencing the migration crisis in the same way as in other Western Balkan states in the lead-up to the country’s election. Croatia’s Interior Minister relocated his office to the camp. I spent three weeks between these transit points during this period. The Presevo camp on the Serbian / Macedonian border, Slovonski Brod camp in Croatia, and Dobovo camp in Slovenia were markedly more humane and efficient in stark contrast to pervious ad-hoc arrangements.

Cascading Restrictions and the “Closure” of the System

On 18 November Slovenia announced it would limit access to migrants from Afghanistan, Iraq, and Syria to filter out “economic migrants.” Croatia, Macedonia, and Serbia immediately followed suit. Serbian Prime Minister Aleksandar Vučić explained the policy change in Europeanized discourse, arguing that “Serbia cannot allow itself to become a collective centre for refugees, so it will harmonize all its measures with those of the EU Member States.” Bottlenecks and tensions from the country-specific limitations cascaded through the system. Serbia and Croatia cooperated to stop migrants from boarding trains in Šid. Thousands were stuck in Idomeni on the Greek / Macedonian border, in makeshift camps across Serbia, and in asylum centres in Bulgaria in increasingly dismal and dangerous winter conditions. Again, protests and clashes ensued.

At the end of November Austria, Macedonia, and Slovenia began constructing more comprehensive border fences. Flows declined from December onwards as a result of stricter Bulgarian border controls, rough seas in the Aegean, and narrow country designations. The flow declined to 7,300 in

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December, and just over 6,100 in February (UNHCR 2016). On 8 March Croatia, Serbia, and Slovenia announced further restrictions on entry, only admitting those with valid travel documents and those who would seek asylum in the remain in the country, therefore limiting transit migration while adhering to the letter of EU and international law around access to asylum procedures. At this point only 460 of roughly half a million migrants had claimed asylum in Croatia. The next day, on 9 March, Macedonia announced the full closure of the border with Greece.

![Fig. 7.2: Sea Arrivals in Greece 2015-2016](image)

On 18 March, 2016 the Council, Commission, and Turkey announced the finalized EU-Turkey Joint Action Plan. As in the Central Mediterranean, the EU vowed to “break the business model of smugglers.” The EU offered Turkey an immediate €3 billion “Facility for Refugees in Turkey” with an additional €3 billion by 2018, ostensibly to fund direct aid and infrastructure projects to support refugees, as well as reinvigorated visa liberalization and a “re-energized” accession process to “reduce human misery and return public order” in the Western Balkans and Europe.\(^{205}\) Thus the EU used incentives of cash, mobility rights, and eventual membership for border controls and a functioning readmission scheme in the now well-established mode of Schengen’s compensatory measures.

The deal’s hallmark was a third-country national readmission mechanism for Turkey to receive asylum seekers without recognizable claims for protection who arrived in Greece, and facilitate the orderly resettlement of an equal number of recognized Syrian refugees to Europe, to a total of 72,000

Syrians. All irregular migrants arriving in Greece thereafter would be returned to Turkey. The bilateral readmission agreement with Turkey, coupled with cascading border closures, meant the effective “closure” of the route at the end of March. By the time of the closure 816,752 people had arrived to Greece via Turkey among a total of between 900,000 and 1.1 million people (depending on the data source and collection criteria) for the entirety of the Western Balkan system in over 2015 and early 2016.

7.4 Evidence for Malignant Europeanization

There is significant evidence for malignant Europeanization as a result of Schengen’s compensatory measures in the Western Balkan system. Findings are particularly interesting given that the system is comprised of accession and Member States. Migrants experience significant insecurity across the route, particularly at Member State borders. Closed borders pushed migrants to more dangerous routes, and security services in Member States were complicit in systematic abuse.

The EU lacked leverage over policy responses to the crisis. In Member States where benign Europeanization was supposed to have fundamentally altered domestic structures and bound them in Schengen’s solidarity mechanisms. Member states systematically burden-shifted and defected from the CEAS. In Hungary in particular, the government used its responsibilities under the CEAS to trap migrants and enact regressive laws and abusive practices in order to generate domestic anti-refugee and anti-Brussels sentiment for the goal of state capture.

Member States saw the most severe security sector corruption, particularly in Bulgaria and Hungary. In Bulgaria, the migration crisis offered the opportunity for systematic robbery and extortion of migrants. In Hungary, on the other hand, the migration crisis upset long-standing smuggling arrangements implicating border guards. The end of the crisis and new border controls meant the re-establishment of smuggling models.

The one positive case is Serbia, where the EU exercised significant leverage given accession processes. The Serbian government clamped down on security sector corruption, and complied with EU programming on border controls and asylum processing. While these did not alleviate the crisis, they nonetheless amounted to formal compliance and to a certain degree re-energize accession discussions.
Bulgaria, Greece, Hungary, and Serbia fundamentally lacked asylum system capacity and did not meet EU reception standards. All states in the system burden-shifted, causing significant regional tensions. After the end of the crisis migrants were trapped in states with low protection standards. The closure of the route was predicated on border closures, limiting access to asylum, violent pushbacks, and chain-\textit{réfoulement}. When understood against the gold standard of EU asylum protections, international norm degeneration is particularly severe. Thus Schengen’s solidarity and burden-sharing mechanisms – core compensatory measure for Member States – offered the policy frame for Malignant Europeanization across several indicators.

As with my field research in the Central Mediterranean system, I did not recruit migrants along any representative sampling technique. However countries of origin generally complied with overall trends in the system. The percentages of responses are offered here to give a general view of experiences across the system, and as with the previous case allow migrants to speak for themselves in terms of my indicators for Malignant Europeanization.

As seen in Fig. 7.3, Serbia and Hungary had the highest percentages of migrants who transited through Macedonia and Bulgaria, respectively. Additionally, Serbia had the highest percentage of migrants who made use of facilitators, while Hungary had the highest percentage of migrants who were physically abused by facilitators. Both countries had a similar percentage of migrants who directly witnessed collusion or corruption of security services. Serbia had the highest percentage of migrants who physically abused by security services, while Hungary had the highest percentage of migrants who experienced violence/extortion at borders. Serbia had the highest percentage of migrants who experienced prolonged detention, while Hungary had the highest percentage of migrants who experienced push-backs/hot returns/\textit{réfoulement}.

\begin{table}[h]
\centering
\begin{tabular}{|l|c|c|c|c|}
\hline
 & Serbia (33) & Hungary (24) & Total (57) \\
\hline
Transited through Macedonia & 21 & 17 & 39 & 68% \\
Transited through Bulgaria & 12 & 7 & 18 & 32% \\
Made use of Facilitators (excluding sea crossing from Turkey) & 8 & 9 & 17 & 30% \\
Physically abused by facilitators & 3 & 5 & 8 & 14% \\
Extorted by facilitators & 6 & 4 & 10 & 17.5% \\
Directly witnessed collusion or corruption of security services & 29 & 19 & 48 & 84% \\
Directly paid bribes to security services & 19 & 17 & 36 & 63% \\
Physically abused by security services & 24 & 21 & 45 & 79% \\
Experiences violence/extortion at borders & 28 & 22 & 50 & 88% \\
Experienced prolonged detention & 15 & 14 & 29 & 51% \\
Experienced push-backs/hot returns/\textit{réfoulement} & 9 & 7 & 16 & 28% \\
\hline
\end{tabular}
\end{table}

\footnote{Note: The table only accounts for migrants interviewed in Serbia and Hungary. Those I spoke with in Hungary were before 16 September, 2015 when the Hungarian state sealed the border and systematically detained migrants in camps. Given that my time in Croatia and Slovenia were in closed camps I do not make a full accounting in this chart as interviews were not private and I was not able to run through my entire questionnaire.}
Human Security

European policy decisions caused significant human insecurity throughout the system. These included shifting flows to more dangerous routes, insufficient protection, direct physical abuse, dangerous bottlenecks and trapping migrants in unsafe conditions, and lack of protection standards in closed camps and detention centres. Direct abuses and protection gaps in the system are particularly salient instances of malignant Europeanization given that all states were Member States, candidates, or potential candidates. All Western Balkan states and Member States had ostensibly functional international protection and reception systems under the EU *acquis* and thus have specific responsibilities as part of the CEAS’s Reception Directives.

Repeated border closures and fencing shifted flows to longer and more dangerous routes. The construction of a fence on the Greek / Turkish land border in 2013 pushed flows toward Bulgaria and the Aegean, which became the deadliest part of the route. MSF reported 3771 deaths at sea on the relatively short crossing to Greece in 2015. While the fatality rate (0.005%) is far lower than the Central Mediterranean route, which crosses both the Sahara desert and the Mediterranean, the number of deaths over a short stretch of sea raises questions about the effectiveness of Search and Rescue (SAR) operations. Likewise, fencing accessible portions of the Bulgarian border pushed irregular migration flows to more dangerous mountain and heavily forested areas. Movement through these areas is both more dangerous for migrants, outside of the purview of Frontex oversight, and open to collusion with smugglers and security services.

While the Greek Coastguard and Frontex ships conducted Search and Rescue (SAR) operations throughout the crisis, the sea crossing was also made more dangerous by abuses from both Greek and Turkish authorities. MSF, which operated three SAR ship, reported accounts of Greek Coastguard ships intentionally ignoring migrant boats in distress, as well as armed ships flying Greek flags and with uniformed men aboard approaching inflatable boats and piercing them with long poles (MSF 2016). Migrants I spoke with in Croatia, Hungary, Serbia, and Macedonia recounted harassment and beatings by Turkish police, particularly on the coast. In August at a transit camp in Kanjiža on the Serbia / Hungary border I met two Syrian brothers (aged 18 and 21), who recounted how when departing from Izmir, Turkish security services extorted bribes from the roughly thirty migrants on the boat. When the boat left the coast they peppered it with automatic weapons fire. Two people on
the boat were killed. The elder brother had been shot through the thigh, the other through the forearm.

The majority of migrants I interviewed (almost 80%) had experienced some sort of direct violence by uniformed security services. Accounts of physical abuse are so systematic and well-documented in rights reports and by international media that a full litany here would be somewhat gratuitous. However, some of the more brutal accounts undermine the sanitized understanding of migration “management” and official EU discourse of smuggling rings as the singularly abusive actors. It should be noted at the outset that I also witnessed sincere acts of compassion and humanitarian behaviour by security services.

*Systematic Violence at Borders*

The Hungarian border was likely the most systematically violent in the system. From petty and vindiective violence, including kicking, punching, and prodding migrants as they passed, to more systematic beatings and cruel punishments including stripping migrants of outer layers of clothes in the winter and long group beatings, likely amounting to torture. I witnessed three altercations where Hungarian border guards would harass and prod migrants until they provoked a reaction, which would then be met with disproportionate force using truncheons, pepper spray, fists, and boots. After the border was closed in September 2015 migrants and human rights groups reported systematic beatings and violent pushbacks. Two (rather slight, teenaged) Afghan migrants I spoke with in Subotica recounted a rather disturbing story of being surrounded by a group of Hungarian police who, after seizing all cash and phones, then took turns holding them upright and punching and kicking them in the legs and stomach before dumping them across the border. They had been recuperating at the disused brick factory for over a week, being seen to by local NGOs and a mobile MSF clinic. Both still had severe bruising and limped badly. One was still extensively bandaged around his torso. A physician at the scene explained that he had suffered severe internal hemorrhaging.

In the Kanjiža camp, which served as a rest stop and gathering point before the closure of the Hungarian green border, migrants would wait until a large enough group amassed (several dozens to hundreds) before walking to the border. Humanitarian workers I spoke with in the camp accredited the practice to a “safety in numbers” tactic given persistent accounts on social media about the likely violence they would experience. Interestingly, Serbian security services (or authorities of any kind)
were completely absent at the green border (the same was true when the flow shifted to the green border with Croatia at Berkasovo). Hungarian border police approached me twice in the no-man’s land between the two borders demanding that I go back to the Serbian side (unless I wanted to claim asylum). On the first occasion migrants were made to sit on the ground and await transport. On the second occasion, however, the scale of the flow was much larger. Hungarian police were intermingled in the crowds of people and indiscriminately hitting, shoving, and kicking people, including women and parents with children.

The Bulgarian border police were also particularly brutal. A group of three men from Pakistan who I interviewed in Belgrade and again on the border with Croatia had travelled together for a period of over eighteen months, recounted how they had been pushed back over the border twice before paying a new smuggler to take them through in a large group. They were spotted by police after several hours walking in a forested mountain area, chased by dogs, apprehended, beaten, and taken back to an area with fencing. One of men described what happened next: “When they took us [back to the border] we were already hurt so bad. There was a boy [age unknown] and he was crying. He decided to run away. They brought him to the place near the fence and made him stand looking to it. They looked at us and they said ‘Turkey, Turkey.’ They kicked his back so he fell [into the razor wire fence]. He was very badly hurt – [describes deep lacerations over his arms, hands, neck and chest]. Very much blood. The police looked scared like they made a mistake. But then they dragged him and kicked him some more […] There was too much blood and he was not awake.”

While I am not aware of any human rights reports or journalistic accounts that corroborate this story of what was likely a murder of an unaccompanied minor by Bulgarian security services, this accounts comport with general findings from human rights reports.

*The Human Security Consequences of Border Closures*

The question remains as to what extent these rights abuses are connected to Schengen’s compensatory measures. Nancheva (2015) argues that the endemic abuses in Bulgaria were reflections of the deficiencies in the supranational CEAS framework. While the argument ignores the fact of endemic corruption and collusion with smuggling and trafficking before the crisis, the Schengen’s compensatory measures securitize irregular migration, privilege border control capacities and the potential for large-scale returns to front-line states over effective intra-European burden-

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207 Interview with Pakistani migrant. Belgrade…

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sharing. The incomplete framework relies on domestic level compliance. Indeed, weak institutional support meant that “nothing indicated Bulgaria’s seven years’ long EU membership and its participation [had translated] into a recast and improved CEAS” (2015: 445). The important point is that the CEAS and Schengen’s compensatory measures rely on the capacity and organizational culture in individual Member States.

Border closures and truncated country lists for transit caused significant bottlenecks throughout the crisis. Interviews with migrants revealed a generalized trend wherein weak state capacity, lack of information, and persistent rumours of closing borders changed migrants’ decision-making logics toward more desperate movement than they otherwise would have made. Bottlenecks and violence as a result of border closures were pervasive throughout the system and followed a common pattern. EU Members States would take a decision to prevent or limit access, and the number of migrants would build up at a border point leading to demonstrations and clashes, medical emergencies, fights among migrants, violent reprisals from security services, and often a series of less-sensational but pervasive indignities. For example, the Macedonian border was closed with significant force against migrants, including the use of military tactics, anti-terror rapid response units, riot control, and firing live ammunition into the air.208 As described in the previous section, closing the Hungarian border pushed the flow to a green border at the Serbian / Hungarian border since the Croatian government refused to allow the flows to move through the economically-important official border crossing in nearby Šid. I spent a total of eight days at the border crossing at the height of the crisis.

For the first several days the Serbian police were entirely absent, leaving crowd control on the Serbian side to international volunteers and UNHCR Serbia. A range of local and international IGOs and NGOs quickly established a mobile transit camp. The weather was extremely poor, and the fields around the border crossing, as well as the sunken road in no-man’s land between the borders quickly turned to mud. The area was filthy and migrant families were often filthy with low sanitary conditions. IGOs set up a row of tents down the road to shelter crowds of migrants. Those working at the border had no indication of how many would arrive on buses from Preševo on the Macedonian border on any given day, and no indication of how many would be allowed to pass through to Croatia. On the third day Croatian security services set up barricades at the border backed by riot police. The ensuing crush of people resulted in heart-wrenching scenes of separated families, fainting


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mothers and children, and a series of scuffles in the crowd.\textsuperscript{209} While the Brussels-led 17 point Action Plan was signed during the crush at the border, the introduction of basic crowd control measures on the Serbian side was the result of an informal, bilateral meeting between Interior Ministers Ostojić and Stefanović rather than any Brussels-led initiative.

\textit{Trapped Migrants & Weak Reception Capacities}

One of the major results of the EU-Turkey deal and closing Schengen’s external borders was to trap migrants in Serbia, Bulgaria, Macedonia, and Greece. By 2016 there were roughly 10,000 migrants trapped in Serbia, with a total of 4,800 asylum seekers. Refugee Status Determination and asylum processing were insufficient. Serbia had granted refugee status to only 17 people, and subsidiary protection to 17 others.\textsuperscript{210} The majority of migrants slept in informal camps, exposed to the elements. Closed routes and lack of opportunities to move on from Serbia meant an increasing number of single women and unaccompanied minors, and higher risks of trafficking (Petrović & Tošković 2016). Amnesty International, Human Rights Watch, UNHCR, and local rights NGOs reported systematic physical abuse inside official Bulgarian asylum centres. In Croatia, even at the most well-managed camps, I witnessed guards taunting migrants arriving on buses.

The 2016 Agenda on Migration established the “hotspot” approach for joint processing of asylum claims in both Greece and Italy. Eventually six were established throughout mainland Greece and on arrival islands in the Aegean. The main outcome of the hotspots and the closure of the Macedonian border was to trap 50,000–60,000 migrants in Greece. Hotspots were jointly operated by the Commission, Frontex, and EASO. Priority was given to fingerprinting migrants and entry into the EURODAC system, with EASO personnel fast-tracking inadmissibility cases for deportation. Reception conditions fell far below the CEAS-mandated Reception Conditions Directive, with significant deficiencies around safety, health, and sanitation, and mixing unaccompanied minors with non-related adults. UNHCR called the camps “chaotic,” and argued that the hotspot approach had scattered families across Greece. The strategy offered little capacity for identifying victims of


traffic. Instead, the focus was on reaching 100% registration and fingerprinting. Syrians returned to Turkey risked abuse and chain-deportations to Syria – a case of chain-réfoulement documented by news services, Amnesty International, and UNHCR.

**Transnational Crime**

As described above, the massive increase in irregular migration in the system upended established smuggling models. The 72 hour laissez passé documents issued by both Serbia and Macedonia, and the sheer scale of people moving across the borders meant smuggling was opportunistic rather than organized and transnational. For example, open reception centres in Macedonia were, until 2015, scarcely guarded at night, and became the focus of smuggling groups (UNHCR 2015). The 2014 Commission Progress Report for Macedonia took pains to point out that the centre was insecure and the focus of criminals (Commission 2014). This was similarly the case in Serbia, where taxi drivers and petty criminals would prey on migrants’ ignorance of the country’s geography and charge exorbitant rates for relatively short transport.

My research also showed that different nationalities used distinct smuggling networks from Turkey. South Asian migrants were more likely to use transnational networks to move through Bulgaria to Serbia, whereas migrants from the Middle East and North Africa were more likely to undertake sea crossings in the Mediterranean. In Serbia I met several Afghan and Pakistani migrants who had paid a “full-package” price in Turkey, then met smugglers in Belgrade to collect cash. The impetus for the deposits was the assumption that if apprehended in Bulgaria they would be robbed by police. In four other cases I spoke with groups of Afghan and Pakistani migrants whose connection in Serbia had cut contact and failed to return their cash installment. An NGO worker at a migrant information centre in Belgrade told me “In the early days the Afghans would wait for their money because this is the last stopover point [before Europe]. But now there are so many rumours about the borders closing that people are worried if they don’t leave they will be trapped. It seems that the [smugglers] learned

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they can keep the money.”\textsuperscript{213} The finding points to the fact that Member State policies emboldened transnational smuggling from Turkey and changed migrants’ decision-making logics, making them more vulnerable to criminal networks.

Border closures on the route meant the return of market incentives for smuggling and trafficking. In June 2015 an IOM spokesperson described the plan to build the Hungarian border fence as a “roundabout subsidy to smugglers.”\textsuperscript{214} In July, September, and October I visited the staging point at the abandoned brick factory in Subotića, Serbia. After several visits I was introduced to a smuggler from the Roma community who described how the migrant crisis had undercut long-established smuggling routes into Hungary. Though he did not authorize me to take notes or record our interview, he described the brick factory as the “second to last” stage on a transnational smuggling route. The fence on the Hungarian border, he argued, had reestablished the smuggling model. Prices had increased since it involved cutting the razor wire and learning about patrol schedules since border guards on the Hungarian side were no longer part of the smuggling operations.

\textit{Corruption}

The majority of Schengen’s external “green borders” lie in the South-East and East of the Schengen area, and are the most prone to corruption. Increased market opportunities for corruption through smuggling and trafficking have significant negative impacts on quality of governance and rule of law (Shelley 2014: 14). While Brussels is the main driver of anti-corruption efforts in the region, corruption remains endemic both in both candidates and Member States. In this sense European policies during the migration crisis cannot be said to have \textit{caused} high-level or petty corruption. However, shifting flows to paths of least resistance offered the opportunity for already corrupt border police and institutions, as well as novel opportunities for channeling EU emergency funds.

\textit{Endemic Corruption at Schengen’s Borders}

In Serbia I conducted several interviews specifically about corruption among police and border guards. Respondents from NGOs with close contact with migrants argued that petty theft among

\textsuperscript{213} Interview with Personnel form Asylum Info Centre. September, 2015. Belgrade.

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police remained a consistent issue throughout the country. However, a respondent from the EEAS working on rule of law reform argued, “If there was corruption in terms of extortion with the Serb police before [the crisis] it was petty, but probably widespread. I don’t think it’s a very big problem inside the country. The real challenge is at the borders where profit is high.”

Another respondent from the anti-trafficking NGO Atina explained, “We go to give some training and capacity building at the border posts and camps about how to identify victims of trafficking. The border guards should be trained on this during the crisis because we don’t have a clear picture of what is happening […] They accept the trainings, but we also know they’re involved because it is difficult to traffic a person into Serbia without help from the border guards.”

A report from the Belgrade Centre for Security Policy found high levels of risk for corruption of border police, particularly on the Hungarian border, including collusion with smuggling and trafficking. The report also highlights the fact that to cross the green border required understanding the timetables and routines for patrols, which implies the passing of information to facilitators (Đorđević 2014: 6-12). These findings were consistent with my fieldwork. Throughout 2014 and early 2015 Human Rights Watch reported on violent extortion and petty theft by Serbian police in the town of Subotica on the Hungarian border and Preševo on the Macedonian border. Police visited informal camps in order to extort migrants. Non-compliant migrants were beaten, pepper-sprayed, and threatened with deportation until they handed over cash and electronics.

However in June 2015 Serbian authorities arrested 29 police and customs officials for facilitating border crossings to Hungary. A respondent from the UNODC who spoke to me about corruption of customs officials on condition of anonymity explained, “The important thing to recognize is that in a country where corruption is still pervasive the politicians have decided to let the media in on the trials. It’s questionable whether the arrests would happen outside of the migration crisis.” Arrests and prosecution of corrupt police, border guards, and customs officials during the crisis were generally an attempt at showing candidates’ capacities toward meeting Schengen criteria.

Respondents from the Serbian Ministry of Interior I interviewed in Belgrade reported that police corruption and extortion of migrants had become a top issue for the government’s concerns over EU perception of their response to the crisis. While migrants reported small-scale extortion, European oversight and journalistic attention allowed for leverage in terms of reputation costs. Indeed, as an academic working in a police training institution in Belgrade recounted, “The politicians don’t want stories about police robbing poor and defenseless refugees. This is the expectation of the ‘bad Serbs.’ We are determined not to look like Bulgaria or Hungary in this crisis.”

However, the scale of corruption and organized crime in the country suggests police collusion with traffickers and smugglers. An NGO worker in Belgrade with long experience with victims of human trafficking told me, “If you think that smugglers can just sit in cafes and drink coffee and transfer money without paying the police then this is your first time in Serbia. It’s maybe not the police walking around the [makeshift migrant camps in Belgrade], but the level above them tells [the smugglers] what they should and should not do, where they can operate, and how much to pay to keep operating. Organized crime is very serious business in Serbia. The police are not robbing the migrants in the open so much anymore […] but they profit from the smuggling.”

Respondents from the EEAS Delegations and in Brussels I interviewed in November and December 2015 clearly understood the potential pitfalls in channeling funding in the crisis given the prevalence of rents and corruption at the highest levels of government. “If oversight is a serious problem in accession states it’s virtually not there once they become Member States […] Releasing funds from the Civil Protection Mechanism will fuel some corruption in states like Bulgaria. Corruption is addressed in the Progress Reports and the Cooperation and Verification Mechanisms in Bulgaria and Romania. But no, we do not discuss corruption when releasing these funds.” Respondents from Frontex in Warsaw I interviewed in 2013 argued that discussing corruption with Member States and candidates was politically fraught, and not discussed given the reliance on cooperation for information and border control activities.

**EU Funding and Corruption**

Interviews in the Balkans and in Brussels included questions around IPA funding and funding from the Civil Protection Mechanism during the crisis. As a consultant working in Belgrade told me, “IPA

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219 Interview with Serbian police official. Belgrade, August 2015.
221 Interview with EEAS Personnel (Western Balkans). Brussels, November 2015.
funding can’t be directly siphoned off. The [EEAS] Delegation is very aware of the potential for corruption. The EU learned some lessons from the PHARE programming in places like Poland and Hungary where a lot of money went missing.”\textsuperscript{222} The analysis was echoed by a policymaker from Serbia’s Ministry of Social Affairs, “It is almost impossible to take cash from IPA because the Delegation approves the tenders. But it’s more possible from the emergency funds. Probably the companies who get the contracts are close to the government, but it does not go into accessible accounts.”\textsuperscript{223} There was some evidence for this trend in Serbia. In a conversation with a number of IGO and other frontline workers at the green border crossing between Serbia and Croatia, a respondent from the Commissariat for Refugees explained that “The migrants are paying €20-50 per person to take the bus from Preševo [to Šid]. Yesterday over 1000 people arrived. We expect tens of thousands and we do not know how long it will go on […] Someone is earning millions from the crisis.”\textsuperscript{224} Though I was unable to corroborate the account during my fieldwork, migrants departing from Preševo paid private companies for transport to the Croatian border with the alternative offer of taking a single train per day in the context of constant rumors of the closure of the Croatian border. A respondent from UNHCR Serbia and an academic at a security studies think tank told me independently that the owner of the major bus company contracted during the crisis was a close friend and political ally of Prime Minister Vučić.

Mass Influxes and Upset Smuggling Models

In a somewhat counter-intuitive finding, the scale of flows during the crisis upended well-established collusion between smugglers and security services on the Serbian / Hungarian border. Petty corruption and extortion were often intertwined with the abuse of migrants, though my findings suggest that on the Hungarian border the loss of smuggling revenues led to more significant abuse of migrants. According to the head of an NGO focusing on refugee integration in the Vojvodina region I interviewed in Novi Sad: “The Subotica smuggling gangs have been active since the period of the sanctions. It began with petrol and auto parts and [consumer goods]. Smugglers used to earn around €50-60 thousand per month moving people across the Hungarian border. But now there’s too much attention [so they have resorted to] low tricks like taking migrants by night and driving them around in circles and dropping them close to the border.”\textsuperscript{225} The description of corruption on the Hungarian border...
border is plausible given that (and as described in Chapter 4) Hungarian border guards receive the lowest wages among EU member states. The 2008 financial crisis led to public sector salary reductions in Greece, Romania, and Hungary. All of which add to the incentive to participate in smuggling and trafficking (Rusev 2013).

I was able to speak to two facilitators at the brick factory in Subotica after spending several days with Afghan migrants who agreed to introduce me. One was from the Roma community. The conversation was one of the more illuminating of the entirety of my fieldwork. They explained in some detail the evolution of the smuggling model in the region, though did not agree for me to record the conversation or take notes. They explained how for years the police and smugglers in the region had colluded with Hungarian border guards at green borders and at the main traffic crossing near Horgoš. Police on both sides of the border colluded to let migrants pass using known vehicles or with guides from the local Roma community to the green border. The main takeaway from the conversation was that the migration crisis and scale of crossings had fundamentally undermined the business model, and that robberies and extortion on both sides of the border were the result of lost revenues.

After the effective closure of the route in March 2016 the smuggling model resumed for the roughly 10,000 migrants trapped in Serbia. Media and rights reports after 2016 recount the stories of trapped migrants, mostly young men from Afghanistan and Pakistan, living rough in Belgrade and again at the brick factory in Subotica. However, intense patrols on the Hungarian side of the border and the national political salience meant that the majority of crossings failed. Apprehended migrants were systematically robbed.

*Shifting Routes and Corruption in Bulgaria*

Bulgaria is the most corrupt state in the system at all levels and the closure of the Greek / Turkish land border pushed flows through Bulgaria, leading to greater opportunities for extortion. Internal security services, border police, political parties, and organized crime groups are intertwined to the extent that distinctions between parts of smuggling and trafficking organizations are somewhat academic (see Rusev 2013: 18-21). A former head of the border police told the German Press that “One could say that there is a ‘business relationship’ between human traffickers, the border patrol
and Bulgarian police. The partnership is tolerated by those in charge.” In 2008 sitting MPs were arrested and charged with running a sex trafficking ring. In December 2015 dozens of border police were arrested for collusion and accepting bribes at a main border crossing with Turkey. In February 2016 five high-ranking members of the border police were arrested for colluding with traffickers at the height of the crisis. In August 2016 the chief of the Bulgarian border police resigned after allegations he had awarded contracts for transporting migrants from the border to detention camps to a company linked with traffickers. In November 2016 forty customs officials and border guards were arrested at the Lesovo crossing with Greece for running the border point “as an organized crime group.”

Respondents I spoke with in the Commission in Brussels who worked on rule of law reform as part of the Cooperation and Verification Mechanism (CVM), as well as EU Parliamentarians recounted how the construction of the border fence would likely not stop the flow into Bulgaria, but instead give border guards a narrower field for extorting and trafficking migrants. According to one Parliamentarian who asked not to be quoted by name given their prominent role on the issue:

Even the reformers are corrupt. But in Bulgaria there are the corrupt we can work with and those who are basically elected criminals. The political elite need to show they can enter Schengen. And they very much want the CVM to be over and done with after eight years. They hate it. [In regards to the corruption of police], public servants are poorly paid and Bulgaria is poor in general. It also doesn’t help they have to watch Russian billionaires come through all summer and build dachas on the Black Sea […] This migration crisis for them is almost like a pay bonus. So maybe some get arrested to show the anti-corruption units are working, but that does not mean they are really tackling corruption.

Another respondent from the Commission working on external borders and responsible for analysis of Bulgaria’s readiness for full Schengen membership recounted how it was assumed that sending money to Bulgaria through the Civil Protection Mechanism or AMIF during the crisis would likely lead to channeling funds to organized crime and political rents given the pace of activities on the border. Indeed, the Commission’s CVM reports for Bulgaria argue that public procurement represents the highest risk for corruption for “illicit enrichment”. The 2016 report found that after seven years of pre-accession Europeanization and a decade of membership measures to prevent

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228 A Commission-led oversight mechanism for full Schengen membership, which assess 6 benchmarks in judicial reform, the fight against corruption, and the fight against organized crime.
229 Interview with MEP. Brussels, December 2015.
corruption “seem in their infancy in most cases.”

High-level corruption remained the major impediment to full Schengen membership. The 2017 CVM report argued that a decade of EU oversight had resulted in limited progress on high level corruption, and that corruption at the borders had peaked as a result of the migration crisis.

The majority of South Asian migrants I spoke with had arrived in Serbia or Hungary overland from Bulgaria. They universally recounted being stopped by police and extorted or physically robbed on the border with Turkey, in Sofia, and in detention centres throughout the country. While many were robbed in detention centres, 16 of 19 recounted a similar story of being apprehended by uniformed security services on small roads in forested areas and made to give up cash and phones. Seven different migrants, travelling at different times, recounted an almost identical story of being beaten and having cash and phones taken, then walked to a van and made to throw backpacks into the cargo area, which was already piled high with people’s belongings. “We couldn’t understand why. The van had many clothes. My bag had only a blanket and some clothes from the UN. Bulgaria does not look like a rich country but even in Afghanistan or Turkey you cannot sell such old clothes. Among us we think Bulgaria is a very bad place.”

The accounts I received are corroborated by the Bulgarian Helsinki Committee, who found that 80% of migrants interviewed reported security services seized cash, phones, “or even the food they carried with them” (Hungarian Helsinki Committee 2016: 7).

As of 2015 Macedonia did not have an external oversight mechanism for police corruption, and had not activated an EU-funded database to monitor corruption to counter “criminal infiltration of the political, legal and economic systems” (Commission 2015: 51). IGO personnel recounted systematic instances of Macedonian security services robbing migrants. According to the head of a Macedonian rights NGO: “There are lots of stories, every day, about how people get pulled aside and robbed of their money and mobiles when they’re trying to cross the border. We think maybe these guards are the same ones who are corrupt in general, but there’s also the ones from the cities who are here away from their families and angry and need to make it worthwhile. There is also the effect of racism.

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Macedonia is a very racist country, especially for Muslims. The guards are heard verbally abusing the migrants saying *allahu akbar*. [...] To answer your question, yes, a lot of the police are robbing people, but it is not as systematic like perhaps in Bulgaria. The money isn’t going up the ladder to the politicians.”\textsuperscript{233} According to a regional coordinator for MSF, “Our NGO partners hear about it all the time. When they are at the border and the situation is tense and there are big crowds it is not an issue. But at night or when families are alone, or especially when there are groups of young men the police will rob them without a question.”\textsuperscript{234} The majority of migrants I spoke with who had transited through Macedonia reported some form of extortion.

**Emboldened MNAs**

In the Western Balkans system there is very little evidence for Schengen’s compensatory measures emboldening militarized non-state actors in the same sense as in the Western or Central Mediterranean systems. The clear intervening variable in the case are relatively strong states in relation to those other regions and the lack of overlap between trafficking and smuggling activities and non-state actors. However, governments of EU Member States on the route, particularly Bulgaria and Hungary, tolerated or actively mobilized vigilante and militia groups organized around irregular migration and borders.

In Bulgaria, groups of vigilantes referring to themselves as “border hunters” organized to apprehend migrants who had crossed from Turkey after the closure of the Western Balkan route.\textsuperscript{235} The country’s president originally welcomed the actions, and the head of the border police presented the leader of one group with a medal, though both backpedalled and declared the citizens’ arrests illegal after a group made headlines for violently apprehending migrants. Two of the more prominent groups in Bulgaria were registered NGOs and travelled throughout Europe to meet other far-right, anti-refugee groups. The local mayor of the border town of Yambol requested military equipment and assault rifles from the government to organize a citizen emergency response force.\textsuperscript{236} Likewise in Hungary, mayors of border towns organized civilian militias, which were legalized with 24-hour

\textsuperscript{233} Interview with Macedonian legal rights NGO. October, 2015. Skype (Sofia).
\textsuperscript{234} Interview with MSF coordinator. Presevo, October 2015.
shifts and designated vacation days. The government put out a call in early September 2016, a year after the border was closed and in the month leading up to the failed referendum for “border hunters” who would be trained, armed, and paid a stipend by the state.

**Domestic Political Contestation**

Domestic political contestation in the system was generally between civil society and the state around framing the response to the migration crisis, with periodic tensions between migrant populations and host communities. These dynamics can be attributed to Schengen’s compensatory measures to the extent that border closures and EU funding concentrated migrant populations in specific areas.

A number of expert-level respondents I spoke with in Croatia, Hungary, and Serbia argued that compliance with EU priorities during the crisis exacerbated domestic political tensions. With the exception of Hungary, popular anti-migrant reactions were not as severe as in other systems when understood against the scale of flows. The relative lack of public protest was due in large part to the assumption that migrants would quickly move on. In all states in the system, particularly in Serbia and Hungary, NGOs and civil society rallied around the plight of migrants to offer aid and challenge xenophobic narratives and policies. However, the closure of the route and subsequent trapping of asylum seekers in low-capacity transit states led to protests against migrants and governmental attacks on civil society.

**Historical Responsibility and the Serbian Response**

Serbia’s role in the breakup of Yugoslavia, coupled with contemporary ultra-right political sentiments, led many to predict a strong negative reaction to the crisis. However, civil society was able to come out ahead of the government and frame Serbia’s response to the migration crisis as a historical responsibility after the experiences of mass forced expulsion. As described above, the Serbian government was keen to play the role of a capable European partner. As a head of division at the EEAS for the Western Balkans described:

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This is an EU problem that we’ve dumped on the Balkans. It is well understood. If we could manage our borders it wouldn’t happen. Greece has failed completely, but that means the CEAS failed completely. There is consensus on what needs to happen but we bicker in public. Meanwhile the frontline states in Eastern Europe bash Brussels and Berlin. To be honest we’ve handed a free lunch to those like Órban. But the real worry for many is that if the border is shut and Serbia and Macedonia get tens of thousands of Muslim asylum seekers it will give the rightists there a victory. Thanks goodness the response in Serbia is not what people expected.²³⁹

Personnel at the Serbian Commissariat for Refugees, and various NGOs working on refugee integration and direct aid argued that Serbian state compliance with EU programming during the refugee crisis was not simply about opening accession Chapter negotiations, but a popular sense of historical responsibility and experience with refugees.

IPA and emergency funding focused on migrant registration and the construction of permanent shelters despite the fact that most beds were empty and migrants signaled no desire to lodge asylum claims in Serbia. The government response to the crisis was relatively hands off until after the October 2015 meeting of heads of state and the 17-point action plan, but even then the government’s focus was on adding beds to shelters and increasing the registration capacity at borders. Some tensions arose given the divergence between European funding priorities and the civil society response. Respondents in Serbia and Macedonia consistently complained that international and local NGOs did not coordinate their response with, or even contact the relevant authorities, whereas civil society complained that the state consistently attempted to truncate aid provision to official centres so as to push migrants away from the public eye.

My research suggests that the flood of humanitarian aid into Serbia exacerbated existing grievances. According to a respondent from the IOM in Serbia, “The state and the NGOs take turns slinging complaints at one another. The funny thing is they’re both funded by the EU. On the one hand it’s true the state was not responsive early enough. But the NGOs acted without thinking of the bigger context. They did not inform the Commissariat and started taking international donations even though there are laws about it. To a certain degree it was in their interest to show how bad the situation is.”²⁴⁰ A respondent from a consultancy working with SEIO on emergency response funding argued that “Even though there are reasonable complaints about the state in general, the Commissariat did the best possible job given the constraints. They never refused to help. The

²³⁹ Interview with EEAS Division for Western Balkans. Brussels, November 2015.
²⁴⁰ Interview with IOM official. Novi Sad, August 2015.
international NGOs especially caused more chaos than necessary by avoiding consultations.” Respondents from the Commissariat for Refugees echoed the complaint that they were unjustly vilified but were constrained by IMF austerity measures and state funding from hiring enough additional personnel.

In November 2016, once the refugee crisis was out of the news cycle, the Serbian government ordered NGOs and volunteers to desist in offering aid to migrants, with the goal of incentivizing migrants to move from the areas around the Belgrade train and bus station to official reception centres outside the city. It then demolished aid stations and the main warehouse in Belgrade where the majority of migrants resided to make room for luxury condominium developments. From 2016 onward Serbia initiated stricter controls on its borders, pushing back migrants into both Bulgaria and Macedonia. The situation came to a head in 2017 when the Serbian state barred NGOs from direct aid with trapped migrants.

**Popular Protest & Resistance to Migrant Support**

Of all the states in the system, Croatia separated the crisis from domestic politics by organizing migration flows from the Serbian border to closed and well-maintained transit camps, and immediately onward to the Slovenian border. In Bulgaria, Serbia, and Hungary, local populations organized petitions and protests against hosting migrant populations. Locating migrant and refugee camps in small, rural towns has had rather significant effects on local perceptions. In November 2013 a proposed winter accommodation for asylum seekers in Obrenovac, Serbia was torched after local protests. In 2014 an attempt to turn military barracks into asylum centre in Mladenovac was halted by citizen protests. Throughout 2014 there were several anti-migrants protests in smaller towns. According to a respondent from a local NGO in the North of Serbia, “Subotica is the hub for all the smugglers around the border. The brick yard and train station have always had irregular migrants around […] but now locals are angry about the number of migrants in the town making litter and taking up the parks. People don’t feel safe when hundreds of new foreigners are hanging around every day. You do not have to be racist to get why this will make parents in a small town

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uncomfortable. A camp organizer from the Commissariat for Refugees told me that one of the main reasons for establishing the camp at Kanjiža was to focus the migrants away from the towns of Horgoš and Subotica. In 2016, an online petition of residents in Šid led the authorities to move asylum seekers to centres around Serbia (Weber 2017: 19).

In late August 2016, a major brawl of over 500 asylum seekers in the Bulgarian town of Harmanli led to counter protests in the town and calls for the centre to be closed. Rightwing groups and media in Bulgaria whipped up hysteria about the presence of asylum seekers. In November 2016 a riot erupted in the Harmanli camp after the State Agency for Refugees imposed quarantine after residents of the town protested for the closure of the camp based on media reports that asylum seekers carried infectious skin diseases. Police used teargas, water cannons, and rubber bullets, and arrested 400 asylum seekers. Rights groups and independent media reported punitive beatings of asylum seekers after the riot.

Throughout 2015 and 2016 international volunteers and NGOs flooded into Greece to provide humanitarian aid. By 2017, just fewer than 900 asylum seekers were returned to Turkey under the EU/Turkey deal. The majority remained in Greece, languishing in sub-standard and unsafe camps, with several thousand in Athens, Thessaloniki, and other large cities, their needs largely met by NGOs and volunteers rather than the Greek state. Civil society activists organized schools and medical clinics in refugee squats. By the summer of 2017 upward of 2,500 asylum seekers were living in squats, despite the fact that the EU and international agencies had poured over €800 million into Greek reception capacity. Throughout 2016 and 2017 Greek police arrested hundreds of refugee solidarity activists. The evictions led to large street protests. As in Hungary, activists framed the closures as a wider attack on the refugee solidarity and associated anti-austerity movements.

Issue Linkage and Repression of Opposition

243 Interview with local NGO personnel. Subotica, October 2015.
Hungary represented the most significant domestic political tensions in the system, discussed at length in the following section. Suffice it to say here that the Fidesz government mobilized the crisis to consolidate electoral gains and attack political opponents. In May, 2015 Órban visited the main asylum camp in the city of Debrecen, and announced publicly that “This is not a refugee camp, but an immigrant camp. We don’t want more immigrants to come, the ones who are here should go home” (quoted in Krekó & Juhász 2015). At the height of the crisis the government launched an anti-migrant billboard campaign, written in Magyar (and thus intended only for domestic audiences). Over 1000 billboards around the country read: “If you come to Hungary, you have to respect our culture!” “If you live in Hungary, you have to respect our laws!” and “If you come to Hungary, you cannot take the jobs of Hungarians!” In June, 2015 six members of the opposition party “Together” were arrested for defacing the billboards. The incident kicked off a “billboard war,” with the satirical “Hungarian Two-Tailed Dog Party” crowdfunding for billboards around Budapest and Órban’s home town reading “If you are Hungary’s Prime Minister, you must respect our laws!” In a somewhat odd twist, the UNHCR office in Hungary launched its own billboards, featuring successful immigrants in Hungary with captions including “We want to live here, that’s why we opened a restaurant.” During the same period the government launched a “national consultation on immigration and terrorism,” sending citizens questionnaires which linked the two phenomena.

As in Serbia, Hungarian civil society organizations took the lead in offering direct assistance to refugees during the crisis, with new volunteer organizations mobilizing from opposition movements. An organizer of the group Migszol in Roszke explained that both the response to the crisis and the billboard campaigns were symptomatic of deep political cleavages, “This crisis is just one part of the struggle against dictatorship. We have to show an alternate vision of Hungary even if we are the minority.” He went on to describe how opposition movements were particularly imperiled given that the majority of liberals, non-corrupt business-people, and well-educated elites have fled to Western Europe. Indeed, roughly half a million people left the country between 2010 and 2014 (Ágh 2016). He described general police harassment and the disdain of many locals for their work with migrants. The government linked activists to the refugee crisis by labeling opposition movements as “pro-foreigner traitors.”

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Entrenched Authoritarianism & Democratic Backsliding

Hungary represents perhaps the most severe instance in the entire study of a sitting government mobilizing irregular migration to erode democracy and rule of law. Importantly, the government linked their response to Schengen’s compensatory measures, particularly Hungary’s role in managing external borders. After the crisis the Fidesz party continued to link Brussels-led initiatives for refugee redistribution from hot-spots in Greece and Italy with populist (and increasingly anti-Semitic) conspiracy theories around international technocrats and elites on an active campaign to undermine the Hungarian nation and European civilization. The trends also extended to the Czech Republic, Poland, Slovakia, and Slovenia.

The Hungary Case: Schengen’s Compensatory Measures and State Capture

Findings from electoral results and the European Social Survey illustrate that “the strategy of blaming and scapegoating foreigners pays off” for right-wing parties, regardless of actual numbers of foreigners residing in a state (Stockemer 2016). In Hungary, where the number of foreign born residents is a mere 1.4%, the strategy mobilized opportunities offered by the Schengen acquis and CEAS to consolidate powers in the executive and attack press freedoms, civil society, rule of law, democratic process, and to impose regressive asylum laws (Krekó & Juhász 2015).

Since winning a majority in 2010 (263 of 386 seats), the Fidesz party systematically eroded the rule of law and consolidated control over state institutions. Fidesz again won the federal, EU, and local elections in 2014 after altering the parliament and party system. The reforms allowed Fidesz to push out their rival far-right Jobbick party to win a two thirds parliamentary supermajority (123 of 199 seats). They subsequently passed a new constitution which fundamentally eroded checks and balances between branches of government, and replaced the heads of all ministries and institutions with party loyalists (Ágh 2016). By 2014, plagued by corruption scandals, losses in local elections, and criticisms over hardline media laws Fidesz found a useful scapegoat in the emerging migration crisis. The 2014 Eurobarometer survey found that only three percent of Hungarians considered

immigration a serious issue,\textsuperscript{250} though independent surveys inside Hungary found significant xenophobic sentiment among the Hungarian population (Krekó & Juhász 2015). The refugee crisis allowed the Orbán government to pass a series of laws and shore up domestic electoral support and deepen attacks on civil society. Under new laws Hungarian NGOs and civil society who aided or sheltered migrants would be tried under the EU’s anti-trafficking directives, which allow for security services to use force against migrants found anywhere inside Hungary, but also to abrogate the civil rights of Hungarian citizens suspected of aiding migrants in any way.\textsuperscript{251}

The anti-migrant tone in politics persisted after the completion of the border fence in September 2015. In August 2016 the government announced plans to hold a referendum on the question “Do you want the European Union to be entitled to prescribe the mandatory settlement of non-Hungarian citizens in Hungary without the consent of Parliament?” The state-sponsored campaign for a “no” vote cost approximately €16 million, including (more) billboards and booklets sent to 4 million homes.\textsuperscript{252} The campaign was framed around the question “Did you know?” followed by phrases like “since the beginning of the immigration crisis the harassment of women has risen sharply in Europe?”\textsuperscript{253} Órban and Fidesz party members campaigned around messages of the civilizational threat to Christian Europe, Hungary’s historical role of gatekeeper against Muslim invasion, and anti-Semitic themes of international financial elites seeking to undermine the authentic character of the Hungarian nation. The October 2016 referendum failed to reach quorum of 50% of eligible voters (3.3 million of 8 million voted), though 99.8% voted in favour. The underlying pretext of the campaign was resistance to Schengen’s compensatory measures – the title of the booklets mailed to voters was “We Must Stop Brussels!”

Indeed, the Hungarian government consistently claimed that its policies were merely the application of the Schengen border code and registration of asylum seekers under the Dublin Regulations. The episodes of trapping migrants under the pretenses of fingerprinting them for EUROCAC drew


\textsuperscript{252} Budapest Beacon. 7 September, 2016. “We must stop Brussels!’ referendum booklet warns Hungarians.” Available at: http://budapestbeacon.com/featured-articles/we-must-stop-brussels-referendum-booklet-warns-hungarians/38777.

international media attention, but was aimed more at domestic audiences. As a member of the NGO Migszol explained:

The police made the situation worse to build the idea of a real threat to Hungary. It’s the same that they do on the borders. They register everyone and count them all as applying for asylum even though they want to leave for Germany. They could pass through efficiently but that would make it seem like [a humanitarian] issue and not a political issue. It’s the same they do with Roma. Every Roma crime is splashed on the news and treated like it’s all Roma who are criminals. Crimes against Roma, where there’s systematic violence by skinheads and fascists is suppressed or called an isolated fight or robbery. People in the activist communities here can recognize the tricks. We all said it as soon as we saw what they were doing. And The Guardian and BBC and New York Times; they have all been here to talk to us; I tell them they are doing exactly what Órban wants.

The Hungarian government required migrants to register for asylum through formal laws, manipulating the letter of the Dublin Regulations in order to maximize the number of registered asylum seekers despite the fact that the vast majority had no intention to remain and moved on, mostly to Germany. In 2017 Hungarian police raided Jewish community centres in Budapest which housed migrants during the crisis.254

While the Commission has launched several infringement proceedings against Hungary and Poland, the European People’s Party has signaled its intention to expel Fidesz, and Member States have issued repeated calls to invoke Article 7 of the Lisbon Treaty (the so-called “nuclear option”), removing Hungary from Council voting rights and suspending EU payments, increased pressure is likely to offer grounds for deeper entrenchment. The Europeanization of Central and Eastern Europe, described as the crowning achievement of European foreign policy, is not faring well. The catalyst is Schengen’s compensatory measures. In hindsight, Schengen’s internal solidarity mechanisms offered fertile ground for authoritarian retrenchment precisely in states where JHA priorities and external border management were supposed to have offered a buffer for controlling irregular migration flows into the Schengen area after the Cold War.

Though outside the scope of this study, the case for authoritarianism as an indicator of malignant Europeanization also extends to Turkey. The Erdoğan government mobilized European vulnerability to brush off complaints about plans to reintroduce the death penalty, shutter the free press, jail journalists and activists, and, after the abortive coup in July 2016, to conduct wholesale purges of all

sectors of the economy, state, and society. In the lead up to the Turkish referendum in April 2017, the German and Dutch governments barred Turkish politicians from campaigning among the sizeable Turkish minorities in those countries. In response, Turkish Interior Minister Soylu threatened that “If you want, we could open the way for 15,000 refugees that we don’t send each month and blow the mind” of Europe.255

**Burden Shifting & Regional Tensions**

The Western Balkans case shows the most significant regional tensions as a result of Schengen’s compensatory measures. The scale and rapid changes allowed for burden-shifting and beggar-thy-neighbor policies by shifting migration flows to other states. The outcomes are particularly problematic given that states either refused to honour commitments under the CEAS, or used solidarity mechanisms as reason for burden shifting. As a (particularly somber) respondent from the Commission told me in December 2015, “If Member States followed the rules the CEAS would work. But they make decisions based on their own [domestic] politics. And now we have the Paris attacks and probably a Brexit and Le Pen set to win in France. Maybe after all solidarity is a concept from Brussels.”256

**Greek Intransigence**

Greece faced particularly strong opprobrium throughout the crisis for its wave-through policy and refusal to accept EU funding and solidarity. According to a senior civil servant from DG Home responsible for borders and mobility, “All the EU rules have been breached. Greece is no one’s friend in the Council. They simply transfer hundreds of thousands of people from inside Schengen to third countries, knowing full well the burden is shifted to other Members. At the end of the day that’s smuggling under the *acquis.*”257 Commission teams conducting checks in Greece found that “the whole system seems to be organized to register migrants and let them leave.”258 The “hotspot”

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approach, part of the 2015 European Agenda on Migration, created significant tensions in between Greece, Member States, and EU institutions.

The Commission pushed Greece to establish processing camps on the islands of Lesbos, Kos, and Samos to fingerprint and collect biometric data for EURODAC requirements in order to facilitate eventual Dublin returns. Greece’s policy response was intransigence and refusal to fingerprint migrants in order to ensure that asylum seekers would not eventually be returned, undermining the single functioning element of the Common European Asylum System.

2015 saw repeated threats from the Commission and Member States that Greece could be suspended from Schengen if it did not strengthen controls at external borders and improve reception capacities to stop the outflow through the Balkan route. The Slovakian Prime Minister called openly for evicting Greece. The Bulgarian Prime Minister repeatedly argued that Greece was fundamentally failing in its role of protecting external borders by facilitating the flow of migrants, noting that Bulgaria was implementing the Schengen acquis despite the fact that it had yet to be admitted to the Schengen area. The head of AMIF funding at DG Home recounted Luxembourg (which held the EU rotating presidency) “calling in and haranguing the Greeks” and threatening to implement Article 27 of the Schengen Border Code formally calling Greece in front of the Parliament to explain its policy choices, particularly its refusals to accept Commission AMIF and ISF funding.

Greece refused Frontex and Commission proposals to mobilize its rapid reaction (RABIT) teams to control the borders and establish effective processing points. The proposal by Frontex would have effectively relinquished parts of border control to Frontex. The Greek government sent a letter to the Commission stating that the proposed mandate was too broad and went far beyond registration. However, Greece also failed to implement the EU Civil Protection Mechanism for humanitarian aid at island hotspots. In November 2015, at the peak of the crisis, Greece refused Frontex operational aid and Commission funding through the AMIF instruments – to which it had agreed to at the Western Balkans Summit the previous month. The punitive measure of Schengen suspension would have only affected Greek citizens since irregular migrants were leaving across land borders and generally not using passports.

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During interviews in Brussels in November and December 2015 respondents from across the Commission and Council singled out Greek intransigence. Respondents described Greece paternalistically. According to a civil servant from the Council’s High Level Working Group (HLWG) on Migration and Mobility, “In the Council the message is for Greece to start behaving like an adult country if it would like to remain in the club of adults […] Member States have already had enough with the fact that they cannot keep their finances in order.”261 A respondent from the Croatian Ministry of Interior argued “The Greeks are letting the chaos happen.” He recounted how “The last [Council] meeting was a group of interior ministers taking turns scolding them like misbehaving children. Austria, Germany, and Luxembourg have all sent ministers to see the situation. Inspecting them like children.”262 Finally, a senior civil servant from DG Home put the original blame on the German open-door response for Greece’s somewhat untenable position, though again faulted Greece:

Ultimately it’s Merkel’s fault. She opened the door and put Greece in this mess. But now that it’s here Greece must simply accept the help of the EU. They refuse the EURODAC machines, the Danish border guards, money for the camps, even money for staffing. Everything. Their refusal sends a message to everyone that they will not take the whole burden, and this is fair. But that will happen anyway if we don’t work together and Macedonia shuts the border. Then they will have no help.263

The relationship between the two states was already fraught over name recognition and Greece blocking Macedonia from opening chapter negotiations. Lack of capacity and turmoil on the Greek side of the border put pressure on Macedonia, which reacted with its own punitive border closures.

At the rather infamously tense June 2015 migration summit, where the Commission announced the plan for voluntary redistribution quotas, Greek Prime Minister Tsipras attempted to link the acceptance of EU solidarity mechanisms to the bailout package and austerity measures from the Eurozone crisis. For their part, leaders of CEE states flatly rejected any notion of resettlement quotas. An enraged Italian PM Renzi claimed that leaders who refused solidarity mechanisms and redistribution quotas were not worthy of calling themselves European,264 saying, “If this is your idea

261 Interview with Council civil servant. Brussels, December 2015.
262 Interview with Croatian Ministry of Interior personnel. Slavonski Brod. September, 2015.
of Europe you can keep it." By the height of the crisis Member States had only sent 291 of the 775 requested by Frontex to bolster reception and guard duties in Greece and Bulgaria.

**Border Fences & Pushbacks**

The completion of the Hungarian border fence was a particularly significant cause for regional tensions, leading to official rebuke from Serbia, Croatia, Germany, Austria, and the European Parliament. Responses about the Hungarian policy in Serbia and Croatia were particularly terse. A local politician from Subotica was of the opinion that, “The Hungarians are, and please excuse my language, sons of bitches. They play a political game with refugees and expect Serbia to be a holding cell for all the Afghans.” Serbia was caught in a double bind given Hungary’s pushbacks and border closure. On the one hand, there was an imperative to relax registration procedures so as to prevent a bottleneck and saddling the country with a sedentary migrant population. On the other they were driven by compliance with EU conditions. “The honest answer is that the main imperative in Serbia is to show we are in line with international standards. Officially, we do the scanning because we don’t want to be accused of letting a terrorist through, but the reality is it’s because we know the [EEAS Delegation] and the Commission are watching.” This sentiment was echoed in interviews in Brussels. A respondent from the Commission who worked in the newly-established centre for thematic expertise on migration argued:

The fact that the crisis is happening in the Balkans is blessing and a curse. There you have the promise of accession and a range of different funds and chances for leverage. But it’s not a neutral field. They are making the decisions to cooperate or close their borders in a way that will deeply affect Europe. The Council has basically told the Commission to do whatever it takes, to use all the tools to leverage compliance. They are doing so, but they must contend with the political calculations of those governments. The favours we ask now will have to be repaid.

Emergency funding from the Commission during the crisis was largely used for official asylum centres, which sat virtually empty, and capacity to register and process asylum seekers. The Commission allocated an additional €10 million in IPA funding between Serbia and Macedonia in

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267 Interview with City Politician. Novi Sad, September 2015.

268 Interview with confidential respondent. Belgrade, November 2015.

269 Interview with DG NEAR (Centre of Thematic Expertise on Migration). Phone. December 2015.
addition to the previous €2.5 million in funding for the Commission authorized to both to access Member State Civil Emergency funds.

Personnel from the Serbian Commissariat for Refugees told me in November, 2015 that only 60 of 1,200 beds were occupied. As a respondent from the Serbian Interior Ministry recounted:

There is money that should have tried to help alleviate the crisis, but it all went to purchasing scanners to register the migrants, not to address their needs. They paid for more beds in the centres even though none of the migrants want to be there. In the eyes of many it didn’t help the situation because we couldn’t hire enough people because of our restrictions from the IMF. It is a very strange situation we’re caught in.270

Echoing findings about PHARE funding for the CEE enlargement, a civil servant from the Serbian Interior ministry told me: “I really get the impression from dealing with the EEAS that the big states in Europe don’t understand how weak the state capacity can be in Serbia. They kind of lay out their desires for what we can do and give us money through IPA to do it. The asylum centres are empty [and] we keep adding more beds.”271 Another respondent from the Serbian Commissariat for Refugees told me at a processing centre on the Macedonian border while showing me new EURODAC machines, “Sometimes I don’t quite understand the way in which the registration process is happening in Serbia. Greece is supposed to have the oversight of the Commission, Europol, and Frontex […], but the first ever registration happens in Serbia. The desire of politicians to be seen as helpful creates problems. If it weren’t for [the promise of accession] we’d just be acting like Greece or Hungary.”272

On 9 September 2015 Commission President Juncker used his State of the Union address to focus EU policy on the crisis and reinforce his message of the deeper politicization of the Commission. The Commission named all countries along the route, including Turkey, safe countries of origin and safe third countries, specifically because “the European Council unanimously decided [they] meet the basic Copenhagen Criteria for EU membership – notably as regards democracy, the rule of law, and fundamental rights. It should also apply to the other potential candidate countries on the Western Balkans, in view of their progress made toward candidate status” and that Macedonia and Serbia’s candidate status and future negotiations would be dictated by their policy responses to the crisis.273

270 Interview with Serbian civil servant in charge of department for European Integration. Belgrade, October, 2015.
272 Interview with Commissariat for Refugees official. Belgrade, September 2015.
As in the CEE and Western Mediterranean, heads of state made public pronouncements around refusing to act as a holding area for Europe’s unwanted migrants. Calculations around border closure policies and compliance with compensatory measures were tied to the assumption of other states’ burden-shifting. As Bulgarian Prime Minister Boyko Borrisov argued in response to the EU-Turkey deal, “If you take a map of Europe you will see that Bulgaria, Romania, Serbia, and Greece will become the buffer zone between Turkey and the European Union. […] We are in favour of European solidarity, but we are not blind and if they would go to this experiment and leave the refugees with us, we will not agree.”

As the Croatian Minister of Interior told me, “If Slovenia closes the border then we close the border. Then it’s Serbia’s turn to respond. We can’t be left paying for Merkel’s hospitality. There are elections coming up.” A respondent from the Macedonian Ministry of Interior told me “When the game is over who will be left with the most migrants? We can’t let Serbia suddenly shut the gates at the same time as Greece does.”

As with Greece and Macedonia, latent Croatian / Serbian tensions were played out through burden-shifting. Until the Western Balkans summit in November, the Serbian state did not notify Croatia of the numbers of migrants en route from the Macedonian border despite the fact that, as I observed, Serbian authorities coordinated onward transport from Preševo. The result was chaotic scenes and significant expenditure by the Croatian state, which mobilized its domestic emergency response finances and materiel. High-level governmental respondents from states in the region were universally incensed at neighbouring state response. The Croatian Interior Minister explained the policy response to me at the Slavonski Brod transit camp “In the meeting they were sitting around in nice rooms and just talking about solidarity. I said excuse me, but I have a national crisis to manage. The Serbs stayed in their very nice suits enjoying the five star hotels […] This is the difference between a functional European state and people who are almost Europeans.”

Long days of conversations with respondents at flashpoints in the crisis revealed a general observation of beggar-thy-neighbour policies. As a UNHCR contact told me at the Berkasovo crossing where only two Serbian police stood by while NGOs and international volunteers managed the border crossing “The government wants the Croatians to feel the pain of this crisis a little bit. It’s all very bitter even if they shake hands in Brussels.” A logistics coordinator from MSF who had passed


275 Interview with Croatian Minister of Interior. Slavonski Brod, October 2015.
through both sides of the border echoed the sentiment almost verbatim: “The Serbians are letting Croatia feel the pain on this and expend their resources.” In September 2015 the Croatian government closed borders to freight and cargo in reaction to Serbian wave-through policy, in violation of the core tenet of the Stabilization and Association Process. Serbia, in turn, blocked the import of Croatian goods, sparking an eight day trade war between the two states as a result of the migration crisis.\(^{276}\)

On the other hand, the migration crisis gave rise to significant interest convergence and regional solidarity between the countries of the Visegrád Group (Slovakia, Czech Republic, Poland, and Hungary), of which Hungary emerged as a leader in building regional solidarity through anti-Brussels sentiment. The Hungarian government walked away from negotiations with the Commission over its proposed overhaul of domestic asylum legislation which were in significant breach of the EU acquis, leading to infringement proceedings against Hungary.\(^{277}\) In September 2016 the Prime Minister of Luxembourg called for Hungary to be expelled from the EU over its reactions to the migration crisis. EU Council meeting of interior ministers voted through a binding quota mechanism using the Qualified Majority Voting mechanism rather than consensus. CCE and Višegrad states balked.

The Czech Prime Minister referred to migrants as “poison,” and the migration crisis as an “organized invasion” of Europe.\(^{278}\) The 2016 Pew Global Attitudes Survey found significantly higher rates of xenophobia and ant-refugee sentiment in the V4 countries than in the rest of Europe, which correlated with strong views on the uniqueness and importance of national identity and negative views against minorities in general.\(^{279}\) The Polish government repeatedly claimed that taking part in a redistribution key would undermine the religious and ethnic homogeneity of the nation.\(^{280}\) As Börzel & Risse argue, “The debates about refugees and migrants were fully politicized and Europeanized,


mapping almost completely on the cultural cleavage” between Western Europe and the CEE enlargement states (2017: 18). The Czech Republic, Poland, and Hungary (along with Romania) are among the four largest net recipients from the EU budget. In March 2017 Austria, a net contributor to the EU budget, threatened to cut funds for CEE states which refused to take part in the redistribution system despite the fact that it too had refused.

Finally, the EU-Turkey deal opened the door for Turkey to leverage intra-European tensions and the impacts on Schengen to threaten and extort the EU, inverting the heretofore well-established dynamic of offering mobility incentives for externalizing Schengen’s compensatory measures. While the deal was originally valued at €3 billion, leaked minutes from the discussion with Tusk and Juncker reveal Erdoğan demanding an additional €3 billion, threatening: “We can open the doors to Greece and Bulgaria anytime and we can put the refugees on buses… So how will you deal with the refugees if you don’t get a deal? Kill the refugees?” As Greenhill argues, the Turkish case of “coercive engineered migration” is not simply about Turkish bargaining power, but that “For several politically expedient but ultimately short-sighted reasons, the EU itself set the stage for, and made itself a prime target in, this latest exercise in coercive engineered migration” (2016: 329). When the EU criticized Turkey for closing newspapers and jailing opposition politicians, Erdoğan told a business forum in Ankara, “We do not have the word ‘idiot’ written on our foreheads. Don’t think that the planes and the buses are there for nothing. We will do the necessary.” While the saber-rattling has yet to translate to policy changes, it nonetheless follows generalized trends of coercive threats of engineered mass migration.

International Norm Degeneration

The Western Balkans provides significant evidence for norm degeneration as a result of Schengen’s compensatory measures. Indeed, the case shows perhaps the most severe instances of norm degeneration when understood against the backdrop of the EU acquis as the global exemplar of rights and due process and Europe’s putative normative power. States throughout the system engaged in


systematic border pushbacks sometimes amounting to réfoulement. State policies included widespread physical abuse, indiscriminate detention, refusal of asylum access on the basis of nationality criteria, refusal to discriminate between asylum seekers as a special class of international migrants, and through the EU-Turkey deal, deportations and return operations amounting to chain réfoulement to Syria. Indeed, states in the system abrogated all of the core norms of the international refugee regime and EU law. I argue that the closure of the Balkan route had the effect of norm degeneration as standard practice for the region, a trend I explore in depth in my concluding chapter.

Border pushbacks, described in detail above, were prevalent throughout the crisis. The 17 point “Plan of Action” adopted on September 25 2015 was specifically designed to arrest the flow through the Balkans. Coupled with the EU-Turkey deal and the closure of the route, in effect it meant limiting access to due process, creating limits on asylum by nationality, and incentivizing Member States and candidates to conduct pushback operations at borders. After the official closure of the route Croatian border police embarked on a policy of systematic pushbacks into Serbia, beating migrants who attempted to cross. ⁴²⁸ MSF reported a “dramatic increase in violence” on the Croatian side of the border near Šid. ⁴²⁹ In 2017 Serbian police and soldiers were accused by rights NGOs of taking up the practice of pushing migrants back over the border with Bulgaria and Macedonia. ⁴²⁶ There is evidence of these practices diffusing through Member States. Rights groups have accused the Commission of turning a blind eye to the emerging Polish practice of refusing to hear the claims of tens of thousands of Chechen, Tajik, and Georgian asylum seekers and pushing them back into Belarus from where most were subsequently returned to their countries of origin. ⁴²⁷

States throughout the system employed tactics of indefinite detention and essentially suspended practices of identifying vulnerability – a core practice in asylum procedures and one which is enshrined in the CEAS Reception Directive. The UNHCR found that “reference to national security

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²⁸⁴ AYS Digest. 5 June 2017. “Recurring Police Beatings at the Croatian Border.” Available at: https://medium.com/@AreYouSyrious/ays-daily-digest-5-6-17-recurring-police-beatings-at-the-croatian-border-1d30c1d9538b.
concerns appears to be used excessively as a ground for rejection of [asylum] applications for international protection, without adequate justification” (UNHCR 2015: 16). Macedonian law allowed for the detention of irregular migrants in closed detention facilities, which, before June 2015, were not provided with legal aid, and where conditions were “inhuman and degrading” (UNHCR 2015).

Truncated asylum lists in Slovenia, Croatia, Greece, and Macedonia fundamentally run afoul of the 1951 Refugee Convention Article 3 on non-discrimination by nationality. In Greece the hotspots served as both reception and detention facilities, where migrants were often discriminated by nationality for access to asylum procedures. Authorities separated Syrians and non-Syrians in camps in Moria, the first Greek “hotspot”, in order to facilitate fast-tracked non-admissibility procedures.

As a main policy entrepreneur in the system, Hungary’s laws systematically derogated from EU and international law. The Hungarian government passed a series of laws since the beginning of the refugee crisis essentially removing Hungary from the CEAS and EU acquis around reception standards. In 2015 Hungary unilaterally declared Serbia a safe third country, allowing for automatic refusal of asylum claims from migrants who had transited through, and beginning a practice of summary returns.288 In July 2016 Hungary passed additional amendments to the Asylum Act and State Border Act which allowed migrants to be summarily returned if apprehended in Hungary within 8km of the border with Serbia or Croatia. In March, 2017 the Hungarian Government passed a law allowing for the “phasing out of reception capacity” in favour of automatic detention of all asylum seekers, with significantly curtailed access to asylum procedures (ECRE 2017). The new law dispensed with the 8km territorial limit to allow for summary returns for migrants apprehended anywhere inside Hungary regardless of asylum requests. From July to December 2016 just fewer than 20,000 migrants were pushed back over the border (Hungarian Helsinki Committee 2016). The European Court of Human Rights found that Hungary’s asylum laws and practices of detention in transit zones were in contravention of a range of EU and international laws, including detention and border protocols, access to asylum procedures, and the illegal expulsion into Serbia.289

The two main Commission funding mechanisms, the Asylum Migration Integration Fund (AMIF) and Internal Security Fund (ISF) collectively sent close to €500 million to Greece since 2015 for border control and emergency camps. An independent investigation found that Greece received a total of €800 million in EU, international, and private donations, making it the most expensive humanitarian response in history when calculated on a per-beneficiary scale given that the bulk of funding was to support the 57,000 migrants stranded in Greece: a cost of over €13,000 per person. As in Serbia, international aid organizations and private donors failed to coordinate with local agencies, meaning a severe misallocation of resources and capacity-building where it was not needed.

According to a joint report by a range of European NGOs, the hotspots in Greece amounted to unlawful prolonged detention under EU law. Europeanization of procedures in the camp with multiple EU agencies, NGOs, and Greek officials led to significant confusion in camps and served to undermine procedures and authority structures (ECRE 2016). On 22 March 2016 MSF, Oxfam, and UNHCR pulled operations from some hotspots because of concerns around complicity with an “unfair and inhumane” solution, which they described as “prisons.” The MSF statement for the hotspot in Lesvos read “We will not allow our assistance to be instrumentalized for a mass expulsion operation and we refuse to be part of a system that has no regard for the humanitarian or protection needs of asylum seekers and migrants.”

The Joint Action Plan meant Turkey would effectively shut the flow to Bulgaria and Greece in exchange for financial incentives, visa-facilitation, and “re-energized” accession negotiations. The deal, which relied on Turkey’s designation as a safe third country, meant the potential for chain-refoulement from Turkey to Syria. Despite its “open door” policy for Syrian refugees, Turkey has repeatedly closed sections of the border and shot at asylum seekers, in some cases fatally.

countries of origin, particularly those apprehended while attempting to cross into Bulgaria or across the Aegean. Migrants were held without due process in detention centres funded through IPA programming instruments (Amnesty International 2015: 8). €505 million of the funding for the Turkey deal was allocated to development aid through DG ECHO, meaning development aid for poverty reduction was “instrumentalized for migration control.”

Greek asylum commissions found that in at least 20 cases Turkey could not be considered a safe third country given evidence of abuses and chain-réfoulement. In June 2016, the Commission pressured the Greek government to change the composition of the commissions to fast-track “manifestly unfounded” claims and favour removal. Later pressure included instructions to reduce the number of asylum seekers identified as “vulnerable,” including victims of torture and those with physical disabilities. By the summer of 2017 just fewer than 1000 asylum seekers had been returned to Turkey. The remainder was trapped in deplorable conditions in Greece without the chance for onward movement to Europe.

7.5 Conclusions: Burden Shifting, Regional Tensions, and Norm Degeneration in the Security Community

My analysis of the 2015-2016 migration crisis in the Western Balkan system shows that the Common European Asylum System, the Schengen’s main internal compensatory mechanism, incentivized states to burden-shift, causing significant regional tensions. The dominant policy responses in the region were wave-through policies, border fencing, repealing of asylum procedures, pushbacks, and detention. State policy choices and attendant changes in the irregular migration system showed the inherent weakness of Schengen’s solidarity and burden-sharing mechanisms in a region where they should have ostensibly been most effective.

Perhaps most significantly, it also revealed that Malignant Europeanization as a result of Schengen’s compensatory measures is not limited to third country or accession states, but extends to Member

States and the Schengen regime itself. In line with my overall framing, the migration crisis quickly transformed into a “Schengen Crisis” (Börzel & Risse 2017). The November 2015 Paris nightclub attacks and New Years’ eve sexual assaults in Cologne galvanized popular fears around the migrant crisis, and tapped into a deep anti-refugee sentiment which, as this project argues, was uploaded to the supranational sphere and drove the shape and content of Schengen’s compensatory measures in the first place. As I argued in Chapters 1 and 2, the fact that refugees had nothing to do with either incident, or that in general are not hard security threats means little in terms of general public opinion or mobilization of xenophobic sentiment.

Heads of state and of the European institutions worried openly about the fate of the European project. As Member States closed borders and deployed armies in late 2015, Germany’s Angela Merkel warned that the end of Schengen would mean the end of Europe, stating “No one can pretend that you can have a common currency without being able to cross borders relatively easily.” Indeed, Schengen, the Euro, and the single market are the mutually-constitutive elements of the European project.

In January 2016 Council President Donald Tusk announced to the European Parliament that migration crisis had become an “existential challenge” to the EU, and that burden-shifting and Schengen’s open borders meant “there is no good alternative to border protection,” which he called “the sine qua non of any effective migration policy.” In his speech he warned that Europe had at most two months to “get things under control,” and if the March Council Summit did not succeed in closing the Balkan route “we will face grave consequences such as the collapse of Schengen.” Once again, domestic politics were uploaded to the supranational sphere. From an intra-EU perspective, the crisis led to sparring between Juncker and Tusk on migration and border competences. While the Commission pushed a strategy of relocation and redistribution based on the assumption of internal solidarity, the Council pushed for a strategy of controlling external borders and diverting flows. Tusk, perhaps more the realist, concluded his speech by quoting Toynbee that “civilizations die from suicide, not by murder.”


In the March announcement of the EU/Turkey deal and the attendant closure of the route the Commission and Council included a “Rodmap Back to Schengen,” which estimated the return of border controls, which it referred to as “The Cost of Non-Schengen,” would cost European economies from €5 to 18 billion annually. As of 2017 limited border controls remained in place throughout Europe. To put the burden on Europe into perspective, the 1 million migrants who arrived in Europe amount to 0.0024% of Schengen’s total population. In contrast, Lebanon hosts over 1 million Syrian refugees: 20-25% of Lebanon’s population. The outsized response in Europe was in a large part due to the nature of the Schengen regime itself and the collapse on internal compensatory measures.

The plan to alleviate the crisis included a binding relocation key to take pressure off frontline state, particularly the Italian and Greek hotspots. Redistribution was based on weighted variables taking into account population (40%), GDP (40%), previous asylum applications (10%), and unemployment (10%). Of a total commitment of 160,000 relocations from Greece and Italy, Member States initially pledged to resettle only 2,250 asylum seekers from Greece. By March 569 of the 160,000 had been resettled. By June 2017 a total of 20,869 had been resettled from both Italy (6,896) and Greece (13,976). Austria, Hungary, and Poland refused to participate. The current rate of relocation means that the total 160,000 would be relocated by 2025. Meanwhile roughly 120,000 migrants per year continue to arrive in Italy via the Central Mediterranean route.

In the end, the route was not closed by solidarity, but by doubling down on external compensatory measures. As was the case with Qaddafi in Libya, the EU / Turkey deal illustrated that strong, authoritarian leaders in transit states are capable of arresting large-scale irregular migration flows and blocking irregular migration systems. Compliance, in these cases, is based almost exclusively on financial and mobility incentives without rights and governance conditionalities.

With the potential exception of Serbia, which to a certain degree bolstered its accession process through compliance during the crisis, there is little evidence for benign Europeanization in the

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system. The region remains source of potential insecurity. In February 2017, after the Brexit vote and on the eve of the French elections, Juncker told US Vice President Mike Pence that encouraging the failure of the EU would mean another war in the Balkans. The Commission’s 2014 enlargement moratorium remains in effect. At the July 2017 Western Balkans Summit in Trieste, the EU and heads of state from Germany, Italy, and France announced more funding for in return for more compliance on rule of law, reduced corruption, and bolstering JHA competences. Heads of state and the EU announced plans to plans for a common Western Balkan regional market, though avoided promises of enlargement. Domestic compliance fatigue remains high as the Commission focuses on reinvigorating the European project in the wake of Brexit. As the Albanian Premier Edi Rama said, “Lowering our expectations of the EU comes naturally as a mirror of the EU lowering expectations of itself.”

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Chapter 8 Conclusion: Schengen and Effective Irregular Migration Management: You Can’t Get There from Here

My argument has turned on Schengen’s compensatory measures as the pivot between Europe’s open border regime and its influence on its near abroad. My findings cast that influence in a rather negative light. For the sake of balance and accuracy I begin this conclusion with the recognition that Europe, writ large, plays an important role in supporting civil society, pushing for rule of law, and promoting minority and civil rights in third countries. In the remainder I explain variation between cases, offer some policy alternatives, and discuss the implications of my project for future research.

As I described in Chapter 4, malignant indicators are a dark lining to the silver cloud of Europe’s influence in Central and Eastern European enlargement states. Benign outcomes in the post-Cold War context clearly outweighed malignant Europeanization given the adoption of laws and institutions for the protection of asylum seekers and migrants in the first place. My goal in Chapter 4 was to show that malignant indicators as a result of Schengen’s compensatory measures are present even when incentives are sufficient to fundamentally alter domestic political structures toward benign outcomes. In the contemporary case of the Western Balkans, malignant outcomes are present amidst a situation where violent conflict is a likely alternative to interminable pre-accession conditionality.

In third countries to the South, European institutions have played a crucial role in supporting civil society and the rule of law even if the outcomes do not amount to fundamental transformation. To name but a few examples, German Stiftung; national cultural foundations like the French Institute; the British Council; peace-building, research, and monitoring organizations like Norway’s PRIO; state-led mediation efforts; INGOs like MSF and ECRE; national development banks; European Commission development projects; and host of other actors and funding initiatives contribute to Europe’s influence on its near abroad. Indeed, during my field research some of these institutions played a key role in supporting and organizing around migrant rights. More broadly, in the era of America’s retreat from global institutions, a resurgent Russia, authoritarianism in Turkey, and the growing likelihood of Central and Eastern European state retreat from liberal democracy, Europe will play an outsized role in supporting liberalism in the international system (if only by dint of lower global standards).
Positive influence notwithstanding, my findings illustrate that Europe’s attempts to control irregular migration into the ostensibly post-modern European space causes significant insecurity and regressive norms and practices around its near abroad. To reiterate the causal relationship: Schengen’s compensatory measures cause changes in irregular migration systems, which are correlated with observed insecurity and regressive practices and norms in transit states. These changes are evidence of Malignant Europeanization because they are the result of European regional integration, of which Schengen is a constitutive element.

Two strong criticisms might be levelled. First, it could be argued that I overemphasize irregular migration controls in Europe’s foreign policy. I defend the emphasis on two counts. First, irregular migration plays an outsized role in European domestic politics, intergovernmental relations, and EU institutional logics. As the migration crisis and its aftermath have shown, the politics of irregular migration has affected the resilience and viability of the European project. Second, since the late 1990s irregular migration and asylum were given an increasingly prominent role in EU foreign policy. Irregular migration clauses are now streamlined into aid, trade, and mobility agreements with third countries. Irregular migration is now an issue of high politics in Europe.

The second strong criticism is that I put too much blame on Europe for insecurity and regressive norms and practices in states where domestic politics and institutions are already fraught. Indeed, many of the states under discussion have weak or non-existent protections for migrant rights, tenuous control over border areas, have histories of scapegoating migrants and refugees for domestic political gain, and suffered endemic corruption without European influence. What I have sought to illustrate is that by changing irregular migration systems Schengen’s compensatory measures pushed migrants into more dangerous situations, shifted migration flows to areas where militias and violent trafficking rings operated, gave more opportunities for a backlash against migrants, increased incentives for corruption, and either directly or indirectly supported authoritarian retrenchment or democratic backsliding in the interest of stopping migrants from reaching Europe. To put the matter bluntly, paying states like Mauritania to detain migrants, the last state in the world with legal chattal slavery, is bound to have deeply pernicious consequences.

My main scholarly intervention has thus been to expand the scope of indicators for Europeanization and explore the causal mechanism to changes in irregular migration systems. My findings thus comport with evidence from Comparative Politics and Security Studies on the refugee / security

To offer an analogy, ill-conceived or poorly-executed trade, aid, and development policies in weak, highly unequal, and corrupt states with subordinate civil society have often created incentives for, or exacerbated clientalism, predation, and state capture, and created markets where non-state actors compete over control of markets for humanitarian aid – all of which contribute to insecurity and democratic backsliding (e.g. Abouhard & Cingranelli 2006; Drury et al. 2006; Easterly & Pfutze 2009; Rotberg et al. 2009; Ahmad 2015). Trapping or diverting migration flows in states like Libya is much the same as dumping aid and development funding into states like Ethiopia where it is used for state capture. While it might be argued that (colonial legacies aside) Global North policies cannot be said to be responsible for endogenous political and security conditions, they nonetheless exacerbate them. To offer a concrete example from Chapter 5, Israel was not very interested in upholding the rights or providing protection to non-Jewish refugees before 2009. But when Europe’s deal with Qaddafi caused a sudden change in the system it assumed refugee status determination from UNHCR, withheld asylum proceedings for victims of torture and trafficking, refused asylum seekers, opened new detention camps, and coerced asylum seekers to leave. Schengen’s compensatory measures were the catalyst for those changes.

8.1 Variation in Malignant Europeanization

To reiterate my central claim, I identify changes in irregular migration systems and attendant insecurity and regressive practise and norms as Malignant Europeanization when they are observably the result of Schengen’s compensatory measures. I am interested in change as a result of European regional integration. The four cases under investigation showed significant variation in the degrees of Malignant Europeanization across my eight indicators. “Figure 7.1” below presents an overview of my findings across cases. I rank my eight indicators along a qualitative spectrum.
My cases reveal eight general findings that help explain the variation between cases. First, while in all cases Schengen’s compensatory measures resulted in worse security for migrants domestic factors determined the degree and types of insecurity. Diverting flows to longer and more dangerous routes, or trapping migrants in states with low protection standards undermined human security for migrants. The CEE states exhibited the lowest human insecurity given physical geography and institution-building as a result of pre-accession conditionality and membership. Against the benchmark of no protection standards Schengen’s compensatory measures increased protection overall. Nonetheless, the creation of new borders meant more dangerous irregular routes, and new Member States had lower reception standards and far weaker capacities for protection and integration than pre-enlargement Member States. The region also became a hub for abusive trafficking networks which as a result of new market incentives.

The Central Mediterranean system showed the highest insecurity for migrants given perilous geography, trafficking networks, and endogenous insecurity. While endogenous insecurity was a key intervening variable, Member States and the EU offered financial and political incentives to deeply illiberal and abusive states to contain migrants. My case illustrated how the 2009 Italy / Libya
“Freindship Pact” pushed migration into the Sinai, giving rise to ever more abusive trafficking networks. The torture and murder of migrants as a result of Schengen’s compensatory measures were (and continue to be) particularly heinous. Results in the other cases were more mixed. The Western Mediterranean shows significant human insecurity, but not at the scale of the Central Mediterranean. In the Western Balkans membership incentives meant Serbia and Macedonia allowed migrants to pass through relatively unhindered. In Greece the state was largely absent, and lack of protection and processing capacities led to migrants being trapped in unsafe conditions. In Hungary and Bulgaria, migrants faced significant predation. The EU was largely unable to affect abusive state practices in Member States.

Second, across all cases prohibition created and reinforced market incentives for smuggling and trafficking. It is in this regard that Europe is most clearly stuck between a rock and a hard place. As early as the 1990s domestic political imperatives to control irregular migration drove European policy and institutional responses toward prohibition, creating more demand for irregular migration, particularly from Africa and the Middle East. Stricter asylum and immigration regimes, uploaded to the international refugee regime, helped entrench irregular migration systems as alternatives for movement to Europe narrowed (see Huysmans 2000; Boswell 2003; Collyer 2006; Neal 2009). In the CEE case, new immigration and border controls gave rise to more sophisticated smuggling and trafficking networks to gain entry to Europe. While in the Western Balkans the migration crisis upended established smuggling and trafficking rings, they re-emerged once the route was closed, illustrating that even in the cases where Europe exercises most influence control-based policies necessarily generate market demand for irregular facilitation.

Third, in the absence of credible membership incentives the EU lacks leverage to foster compliance around good governance, rule of law, or rights reforms in third countries. Europe’s normative influence is not borne out by research testing for benign Europeanization in third countries (Lavenex & Schimmelfennig 2009; Bicchi 2007; Balfour 2012; Bindi & Angelescu 2012; Noutcheva 2013). While attractive for IR scholars and ostensibly enshrined in EU law, is not shared by EU personnel with experience in peripheral third countries (Adler & Barnett 1998; Manners 2008; c.f. Hyde-Price 2006; Kelley 2006). Interviews with Brussels policymakers and senior civil servants revealed a near-unanimous that the EU lacked the leverage to foster benign Europeanization in third countries which would mitigate malignant outcomes. EU personnel presented Morocco as a success story of third country compliance. However none were able to present clear evidence for benchmarks or oversight.
for rights, rule of law, or good governance as a result of EU / third country migration relations. While the limited ability to influence alone casts doubt on the range of Europe’s migration-related foreign policy, the persistent framing of relations with third countries as a triple-win for Europe, sending and transit states, and migrants, is, under prevalent funding and programming commitments, entirely disingenuous.

In the CEE case, accession meant fundamental structural change to domestic institutions and laws toward European standards, though findings from the Western Balkan case support findings from Europeanization literature that accession means a significant loss of leverage (Graziano & Vink 2007; Börzel 2013; Grabbe 2014). Democratic backsliding and the responses to the refugee crisis cast doubt on the long-term transformative power of EU membership.

Fourth, authoritarian retrenchment and democratic backsliding occur in both third countries and EU Member States as a result of Schengen’s compensatory measures. In Libya, Sudan, Egypt, and throughout East and West Africa, the EU and Member States directly paid authoritarian regimes or offered the hope of some degree of visa liberalization to help stop irregular migration. These regimes adopted EU language and institutional structures around smuggling, trafficking, and terrorism to leverage more concessions, but coupled these with authoritarian retrenchment. In the Western Balkans case, Hungary’s reaction to Schengen’s compensatory measures was significant democratic backsliding in an EU Member State.

A fifth, normatively-troubling finding, is that relatively strong, usually authoritarian states can stop irregular migration flows when financial and political incentives are high and concern for protection standards and international norms are low. Morocco, pre-Arab Spring Libya, Israel, Turkey, and Hungary were all able to functionally stop migration inflows and outflows through hardened borders and regressive laws and practices. The finding is significant in that Europe’s policy frameworks after 2016 is driven by a renewed focus on funding the security apparatuses in third countries to “break” smuggling models.

Sixth, Schengen’s compensatory measures resulted in hard security threats in already weak states. The most extreme cases of insecurity were isolated to North Africa and the Sahel where militant groups were already major actors. After the fall of Qaddafi various militias and armed groups, including Islamic terrorist organizations, have taken advantage of the market incentives for
smuggling and trafficking to fund operations. In the Northern Sinai existing smuggling and trafficking rings overlapped with armed groups actively contesting state control over the area. They took advantage of new routes to strengthen their position. Again, this finding is important given Europe’s current focus on the Central Mediterranean route and deals with weak or fractured states throughout the system.

Seventh, *regional tensions are most significant where expectations of solidarity and burden-sharing are highest*. The Western Balkans case showed by far the most significant burden-shifting and regional tensions. States in the system systematically allowed migrants to pass through their territory unhindered, enacted laws and policies to incentivize quick onward movement, and in the cases of Serbia and Croatia actively facilitated transportation between borders. States closed borders in punitive actions, and restricted access to asylum which trapped migrants in the preceding state. The result was significant regional tensions and defection from Schengen’s compensatory measures.

Finally, *Schengen’s compensatory measures undermine international protection norms*. The cumulative impact of Europe’s policies are arguably more global than borne out in the case studies given that European states which were some of the core architects and promoters of the international refugee regime are observably retreating from its core norms in the interest of protecting Schengen. The outcomes are particularly worrisome from an IR perspective. The early norms diffusion literature turned on this very point of state identity and appropriate international behaviour. As Finnemore & Sikkink argued in their seminal article “what happens at the tipping point is that enough states and enough critical states endorse the new norms to redefine appropriate behaviour for the identity called ‘state’ or some relevant subset of states (such as a ‘liberal’ or a European state)” (1998: 901-902 emphasis added). I do not delve into the norms literature here, but only wish to highlight the fact that the maintenance of international norms is dependent on the leadership of critical states. Contemporary trends bear this out.

In the first year of his administration US President Donald Trump banned refugees from predominantly Muslim countries, halved the US’s international resettlement quotas, and enacted a series of regressive domestic policies to round up an expel previously protected irregular migrants. Coupled with Australian policies to offshore migrant detention and excise Australian territory from the 1951 Convention, this general trend means global South states arguably face less of an incentive to comply with international protection standards. Indeed, as Loescher argued in 2001 “Refugee and
human rights norms enjoy a special status among Western states because they help define the identities of liberal states. They are also important to non-Western states because adherence to these norms constitute a crucial sign to others of their membership in the international community of law-abiding states” (2001: 30). The 2015-2016 migration crisis showed that a breakdown in solidarity inside Europe meant doubling-down on securitized policy frameworks and reliance on illiberal states to keep migrants at bay. The lesson was not lost on major refugee-hosting states.

In the wake of the EU / Turkey deal there was evidence of regressive norm diffusion beyond the states discussed in the systems. To take one clear example, while there were longstanding domestic political pressures and iterated calls to expel refugees in the past, the Kenyan Interior Minister drew on the European response to the crisis in announcing the shuttering of Kenya’s Department of Refugee Affairs, and the closure of the Dadaab refugee camp (the world’s largest) and plans to expel almost 300,000 refugees to Somalia. Facing a backlash from rights groups, a statement from the Minister read: “We will not be the first to do so; this is the standard practice worldwide. For example in Europe, rich, prosperous, and democratic countries are turning away refugees from Syria, one of the worst war zones since World War Two.” Though it climbed down from the immediate threat to forcibly repatriate the entirety of the population of Dadaab, the Kenyan government returned almost 40,000 people to Somalia. Likewise, the EU continues to press for returns of failed asylum seekers to Afghanistan and Pakistan despite manifest concerns for their safety.

8.2 What Comes Next? Europe’s Policy Options

Europe’s migration crisis did not end with the EU / Turkey deal. Rather, the locus of the crisis shifted back to the Central Mediterranean system. 2016 and 2017 were record years. In 2016 over 180,000 migrants crossed the Mediterranean, primarily from Libya to Italy. By July 2017 over 86,000 had made the crossing, with 2,206 confirmed deaths at sea. Many of the earlier burden-shifting patterns and regional tensions are playing out again. At the beginning of the 2015 migration crisis Italy stopped registering migrants under EURODAC, offering the chance to travel on to France or more often to Germany via Austria. France reinforced border controls, and throughout the summer of

2015 returned 6000 migrants to Italy.\textsuperscript{307} This back and forth is being replayed again in 2017, with migrants stuck in Italian Riviera towns at peak tourist season.\textsuperscript{308} The terrain is now more fraught and the stakes higher in the wake of the migration crisis given the low threshold for burden-shifting and domestic political successes for “resisting” supranational solidarity mechanisms.

In July 2017 Italian Interior Ministry officials openly considered offering temporary protected status, introduced after the Balkan wars, to allow migrants to move on through Schengen. In response, Austria announced it was preparing to send armed forces to seal the border in the Brenner Pass in the Alps if a new migration route emerged, announcing “We will not allow that people can move to the north, we know what this triggered in 2015.”\textsuperscript{309} Violent protests at the border ensued.\textsuperscript{310} The Višegrad Group sent an open letter of solidarity to Italy (with the Commission in copy) calling on it to ignore imposed solidarity mechanisms, stop NGO search and rescue operations in the Mediterranean, pay more to support the Libyan coastguard, and (trodding a well-worn path) to establish offshore processing centres in Libya.\textsuperscript{311}

The cycle of externalized migration controls, internal burden-shifting, and regional tensions undermines the European project, migrant security, and support for liberal asylum policies. The ongoing migration crisis in the Mediterranean is part of a decades-long process. Reactive policy solutions have largely failed. I propose that Europe faces three choices (in order of likelihood given past policies, bureaucratic path dependency, and political considerations) with varying levels of likely malignant outcomes: The Višegrad Road, Walking the Talk, and Pragmatic Global Leadership.

\textbf{8.2.1 The Višegrad Road}

What I call The Višegrad Road follows the path to burden-shifting and defection from solidarity mechanisms, entailing more militarized external responses, deeper fragmentation inside Europe, and


more Malignant Europeanization around Europe’s peripheries. In addition to the EU / Turkey deal, Brussels responded to the 2015 migration crisis with proposals for more supranational solidarity mechanisms. Eastern states which refused binding refugee redistribution quotas were offered the chance at “solidarity” payments for each asylum seeker they refused to take. Frontex was rechristened as the “EU Border and Coast Guard Agency” and EASO as the “EU Agency for Asylum,” both with more devoted personnel, larger budgets, and expanded mandates to intervene in Member States. These efforts faltered in the face of national politics. Eastern states took the EU to the European Court of Justice over the Qualified Majority Voting mechanism, and pushed the line domestically that mandatory quotas undermined their nationhood. The Commission launched formal infringement proceedings against the Czech Republic, Hungary, and Poland. In July 2017 Hungary ignored a European Court of Human Rights decision that it must upgrade conditions in closed transit camps on the Serbian border which fall below standards of the European Convention on Human Rights and amount to inhuman or degrading punishment and treatment given indeterminate detention, lack of shelter, insufficient food, and lack of access to medical care.

Indeed, the 2015 migration crisis ushered in a concerted effort at Eastern regional solidarity and a competing normative framework, reinforcing a Europe of sub-regions with different visions of the European project (see Jeffrey & Rowe 2014). As Börzel and Risse diagnose the issue:

> The main conflict line in the debate about refugees and migrants is not about national priorities and the like, but about visions of Europe: it puts ideas about a multicultural, open and cosmopolitan Europe, on the one hand, against an alternative vision which we term ‘nationalist Europe,’ for lack of a better term [...] The debates about refugees and migrants were fully politicized and Europeanized, mapping almost completely on the cultural cleavage (2017: 18).

In terms of policy, these cleavages are most obviously borne out in the difference between supranational solidarity frameworks and more militarized compensatory measures for irregular migration, with the Council and CEE states pushing for the latter. On 15 February, 2016 the Višegrad states (or ”V4” - Hungary, Czech Republic, Slovakia, and Slovenia), plus Bulgaria and Macedonia, held an extraordinary meeting ahead of the March Council summit which announced the closure of

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313 Zalan, Eszter. 11 May, 2016. “Hungary and Slovakia Challenge Quotas at the EU’s Top Court.” EU Observer. Available at: https://euobserver.com/migration/137857.

the Balkan route through the EU / Turkey deal. The V4 called for a “subsidiary border force” and large-scale armed intervention, including NATO troops, to the Macedonian border as a “Plan B” in case of Schengen’s collapse and the failure of the EU / Turkey deal. 315

Despite the closure of the route, the 2015 crisis in the Western Balkans opened the space for Eastern leadership on more militarized compensatory measures. In April 2016, less than a month after the EU / Turkey deal, defense officials from the V4, Austria, Croatia, Macedonia, Serbia, and Poland met to discuss future mass influxes. A truncated group of the V4, Austria, and Croatia met again in Prague in June 2017 and announced the creation of the “Central European Defense Cooperation” group, based on the commitment to conduct joint training to deploy armed forces in the event of new migration crisis. At the end of the meeting Hungary’s Viktor Órban announced: “Countries [in Western Europe] now experimenting with the creation of Eurabia – or with the amalgamation of the remnants of Islamic and Christian culture – will now have to recognize that it’s not only the Hungarian government who don’t want to take part in such experiments.” 316 The group announced plans to close borders and establish processing camps throughout North Africa in the event of a future migration crisis, to which all asylum seekers and migrants would be summarily deported. In an interesting confluence between my cases studies, the V4 enlisted the help of Israel in planning comprehensive border fortifications. At a meeting with the V4 leaders in Budapest in July, Israeli PM Netanyahu unwittingly transmitted comments from a closed-door meeting to reporters, offering expertise given “We blocked the border not only in Egypt but in the Golan Heights.” 317 Two weeks later the Czech Foreign Minister called for an EU military intervention in Libya to stop the migration flow. 318

Current policies in the Central Mediterranean follow the established model of more militarized controls, and are in part a rearguard response to burden shifting and defections from internal solidarity mechanisms. Indeed, externalized migration controls continue to be driven by intra-European politics. The quick fix in the Central Mediterranean includes more payments to illiberal

regimes and paramilitary groups like the Libyan Coastguard to “break” smuggling models. In July 2017 the Libyan government invited Italy to take part in maritime operations inside its coastal waters,\textsuperscript{319} Italy’s Interior Ministry announced plans to deploy a military support force to Libya’s Southern borders, and the Commission announced an additional €46 million to “reinforce” the capacity of Libyan armed groups.\textsuperscript{320} Finally, France’s newly-elected President Macron announced plans to broker a peace agreement between rival governments in Libya and announced the culmination of decades of iterated calls to establish Greek and Italian-style “hotspots” in Libya.\textsuperscript{321}

Leaving aside the human security implications and the range of malignant outcomes that come from such policies, the larger point is that relying on authoritarian states to control irregular migration flows opens Europe to coercive engineered migration. As Greenhill argues,

> In attempting to save Schengen and to circumvent a combination of EU and domestic-level political costs and challenges, member states may have actually made themselves more vulnerable to future migration-driven coercion while at the same time also failing to address either the underlying structural issues or proximate triggers fuelling the migration crisis (2016: 331).

Electoral politics in Europe continue to drive Schengen’s compensatory measures for irregular migration. The Višegrad Road is the most likely policy response given defections from the CEAS and emergency solidarity mechanisms like hotspots and redistribution keys. It is comprised of more of the same policies which have largely failed to prevent irregular migration in the absence of membership incentives or sufficient financial and political incentives for strong, authoritarian leaders in transit states. It represents a centrifugal force for the European project given that it widens the opportunity structures for defection and will result in more Malignant Europeanization around Europe’s peripheries.


\textsuperscript{321} Farand, Chloe. 30 August, 2017. “Emmanuel Macron says France Will Set up Refugee ‘Hotspots’ in Libya.” \textit{The Independent}. Available at: \url{http://www.independent.co.uk/news/world/europe/emmanuel-macron-france-hotspots-libya-migrants-a7867466.html}.
8.2.2 Walking the Talk

As described in Chapter 3, Europe has yet to effectively support paper policies with program funding. Walking the Talk entails allocating sufficient funding around the “triple win” of effective migration management between Europe, sending and transit states, and migrants, and investing in regional development and protection mechanisms to forestall irregular secondary movement for refugees. It would mean bringing funding priorities in line with the rhetoric of the Global Approach to Migration & Mobility (GAMM), which the Commission describes as “the overarching framework of the EU external migration and asylum policy.” GAMM’s four pillars are: better organizing legal migration, and fostering well-managed mobility; preventing and combatting irregular migration, and eradicating trafficking in human beings; maximizing the development impact of migration and mobility; and promoting international protection, and enhancing the external dimension of asylum.322

From 2003-2014 only €1 billion was devoted to external migration through the GAMM; 84% of which was allocated to the second Justice and Home Affairs pillar (García Andrade et al. 2015). This means that less than €200 million was allocated to the non-securitized, development-focused pillars over all countries. As described in Chapter 3, the EU offered “Mobility Partnerships” to third countries for compliance, particularly for signing third-country national readmission agreements to take back irregular migrants and failed asylum seekers. But these mobility incentives were largely limited to elite professions and could not replicate the well-functioning circular migration systems to Southern Europe which existed before the 1999 Amsterdam Treaty.

To put these sums into perspective, Turkey receives the largest share of pre-accession funding, at almost €4.5 billion from 2014-2020. The EU / Turkey deal will cost €6 billion over two years. Throughout 2016 and 2017, therefore, the EU will pay over €3.5 billion per year to ostensibly Europeanize Turkey through accession and to hold back irregular migration flows. According to the Commission, democracy, rule of law, and civil society promotion are the top priority areas for IPA programming.323 Turkey represents a case where programming, benchmarking, significant financial transfers, and membership incentives (though perhaps not entirely credible) are met instead with demonstrable democratic backsliding and entrenched authoritarianism.

In addition to GAMM shortfalls, funding allocation to the Emergency Trust Fund for Africa, announced at the height of the migration crisis and designed to prevent irregular secondary movement through Regional Development and Protection Programs, was equally paltry. As discussed in Chapter 5, the €2.9 billion announced at the Valetta Summit in November 2015 was in fact old moneys repurposed to cover projects in 26 countries across the Sahel, East Africa, and North Africa – a rather vast area comprised of major refugee generating states and which hosts some of the most enduring protracted refugee populations.

As a final point, as of 2017 the UN’s Syria Regional Refugee Response plan had received funds sufficient for only 39% of operational coverage (just over $2.2 billion of $5.6 billion). The EU, through the Commission and Member states, committed a total of just over $1 billion, or 45% of the total allocated funding. However, $459 million of these funds were wrapped up in the “Facility for Refugees in Turkey” as part of the total €6 billion for the 2016 EU/Turkey deal.\(^{324}\) The Commission and Member States supported several other programs, with Germany, Norway, the UK, and France making the most significant contributions throughout the region.

Thus outside of the EU/Turkey deal the EU and Member states contributed just over $550 million toward a total operational need of $5.6 billion to address the very catalysts for the 2015 migration crisis, and €200 million to all the non-securitized pillars of the GAMM to over a dozen countries over ten years in the context of yearly payments of €3.5 billion to Turkey. The Commission and private donors dumped almost €1 billion into Greece during the crisis for what became the most expensive humanitarian operation in history with the effect of trapping 60,000 asylum seekers in an EU Member State and not addressing push factors or conditions in third countries.

As discussed in Chapter 6, below-subsistence humanitarian aid (let alone sufficient funding for integration and livelihoods) was a prime catalyst for the 2015-2016 migration crisis which, if the leaders of the EU’s institutions and its most important heads of state are to be believed, brought the European project to the brink of collapse. But the Syrian Civil War is not the only crisis threatening to send mass migration flows to Europe. Uganda is experiencing a massive refugee influx from South Sudan, with numbers skyrocketing from 800,000 in July 2016 to almost 2 million in July 2017.

(double the number for the whole of Europe during the migration crisis). In May, the World Food Program halved emergency rations given funding shortfalls.

The economic rationale for doing more to forestall another migration crisis is self-evident, and through the GAMM the EU has the rhetoric and policy frameworks already in place to do so. Estimates of the economic costs of “non-Schengen” vary. The Commission estimated the costs of closed borders at €5 to €18 billion annually. Other studies calculated the cost over a decade through increases to import costs much higher: €235 billion to Germany and €244 billion to France alone, coupled with a dramatic decline in economic growth (auf dem Brinke 2016). RAND Corporation argued that the costs of border control alone would be €2 to €3 billion annually, though increased cross-border crime, and damage to civil liberties and political trust would far outweigh economic costs.\footnote{Hafner, Marco et al.. 12 October, 2016. “A Research Paper on the Costs of Non-Schengen from a Civil-Liberties and Home Affairs Perspective.” Rand Corporation. Available at: \url{https://www.rand.org/pubs/external_publications/EP66670.html}.} In short, the EU might consider putting its money where its rhetoric is in terms of “global” compensatory measures from a purely self-interested economic perspective and dispense with the language around benign Europeanization.

In June 2016 the Council gave the green light to a Commission paper to establish a new Partnership Framework with third countries, which calls for upward of €62 billion in EU money and leveraged financing, enacted through Migration Compacts with sending and transit states.\footnote{European Commission. 7 June, 2016. \url{https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/proposal-implementation-package/docs/20160607/communication_external_aspects_eam_towards_new_migration_ompact_en.pdf}.} Fundamentally, the new Compacts attempt to emulate the short-term successes of the EU/Turkey deal with sixteen sending and transit states in the global South, with an early focus on West African and Sahel states in the Central Mediterranean system.\footnote{Afghanistan, Algeria, Bangladesh, Egypt, Ethiopia, Ghana, Iran, Ivory Coast, Jordan, Lebanon, Libya, Mali, Niger, Nigeria, Senegal, and Tunisia.} The Compacts are designed to increase financial incentives for compliance around Regional Development and Protection Programs, readmission agreements, and border controls by tying development aid and financing to migration management, with the stick of reduced aid for non-compliance. The question remains, of course, as to whether substantially increased funding through the Compacts can meet the GAMM priorities or, as seems evident by the subsequent progress reports, the focus remains on JHA pillars and quite limited mobility incentives.
for students and high-skilled workers. By July 2017 Member States had allocated a mere €200 million to the €62 billion plan.

8.2.3 Pragmatic Global Leadership

Pragmatic global leadership entails recalibrating Schengen’s internal and external compensatory measures by taking advantage of new opportunity structures for international refugee resettlement, and punishing defectors inside the EU. Rather than focusing on securitized compensatory measures, which clearly have largely failed, leadership would entail rethinking burden-sharing mechanisms at the global scale by significantly increasing international resettlement for recognized refugees. These policies are the least likely given political risk, domestic and intra-European politics, policy trajectories in the international refugee regime, and the failures of multilateralism. The impacts of Europe’s demise on the international system are likewise difficult to imagine. I ask the reader to suspend disbelief and humour a thought experiment.

Burden-sharing is one of the core norms of the international refugee regime (Skran 1995). In the immediate postwar period it almost exclusively took the form of host country naturalization or third country resettlement. Postwar political realities meant the majority of displacement was permanent, and the new refugee regime had no mandate to pursue repatriation (Hansen 2003; Judt 2005; Lieberman 2013). As described in Chapters 1 and 2, after the Cold War the refugee regime shifted focus to return to countries of origin as the preferred durable solution. The result was a radically unequal North / South distribution of refugees and protracted refugee situations. These factors helped create incentives for irregular migration pressure on Europe.

Domestic political distaste for asylum provision means global burden-sharing amounts to financial costs borne by wealthy states, and physical costs borne by states in regions of origin (Thielemann & Dewan 2006). Irregular migration dynamics show that the situation is untenable. Protection gaps, funding shortfalls, and lack of access to durable solutions are key push factors in all irregular migration systems. All states now pay political costs. Europe thus has a strong incentive to address push factors.

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The Schengen area represents a *sui generis* case for burden-sharing (Börzel 2013). Open borders mean shared risk—a dynamic which drives Schengen’s compensatory measures. Member States disagree over what constitutes fair burden-sharing, with frontline states increasingly unwilling to abide by Europe’s internal burden-sharing mechanisms (Neumeyer 2004). The Common European Asylum System (CEAS) attempted three modes of addressing these unequal burdens: harmonization of asylum legislation (sharing norms & policy); redistributing resources (sharing money); and redistributing asylum seekers (sharing people) (Noll 2003). Policy harmonization, despite being enshrined in the CEAS, remains outside the realm of the politically possible when most asylum-seekers in Europe are spontaneous irregular arrivals and European policy is almost entirely reactive.

Of the international refugee regime’s three durable solutions, naturalization in host countries is a non-starter given global refugee distribution in already weak states. Less than 1% of refugees are recommended for international resettlement per year because of receiving state quotas. Despite the focus on return as the preferred durable solution, the regime now faces historically low repatriation figures—down from around 1 million per year in the 1990s to roughly 150,000 per year over the last decade. Thus the global stock of refugees grows while solutions narrow.

The EU’s Regional Development and Protection Programs rest on the idea of local development to hold refugees in place. The 2016 New York Declaration for Refugees and Migrants calls for streamlined funding and engagement of the World Bank and regional development banks for leveraged funding and human capital investment for refugees, cash-based aid, and new micro-lending schemes. Refugee Studies scholars and governments are pinning hope on innovative livelihood models in hosting regions (for the penultimate example see Betts & Collier 2017).

Fundamentally, however, these programs are predicated on keeping refugees in regions of origin and preventing irregular movement. The equally fundamental truth is that refugees are reflexive people, and irregular migration systems provide one of the only durable solutions to their displacement. The perceived risks of crossing the Mediterranean outweigh those of staying in camps and cities in the global South. While meeting basic requirements through the UN humanitarian system is a first step at reducing mass influxes, but evidence from this project suggests large numbers of people in protracted situations will not be swayed by funding and development solutions, no matter how innovative, particularly given serious protection gaps and predation.
The remaining durable solution is also the most challenging: massively increased, permanent international resettlement. Despite the political risk, it remains the only sure way to address the root causes of much of the irregular migration to Europe. Europe could lead by expanding overall international resettlement using positive and negative incentives, including substantially increased AMIF funding for participating states and substantially decreased transfer payments to non-compliant states.

As iterative asylum and migration crises illustrate, migrant agency matters a great deal – people on the move seek to maximize utility based on the reception and protection policies of given destination states. Refugees could be incentivized to stay in countries of resettlement by geographically limiting social welfare provision and providing education and training opportunities as in Germany’s Lander-based distribution. These proactive measures would distribute risk inside Europe, reinvigorate Europe’s international normative leadership, and decrease internal burden-shifting by enabling active solidarity. It would have the added bonus of isolating the V4 and like-minded states by offering a practical and normatively progressive vision of the European project.

Without a doubt populist politicians and xenophobic, Eurosceptic Eastern governments would take umbrage with organized resettlement. But this would be nothing new. The Syrian refugee crisis generated an unprecedented outpouring of public support, private capital investment, and innovative volunteer initiatives to offer direct support for settlement support and integration. Belgium, France, the UK, Netherlands, and Italy are all experimenting with pilot programs for private refugee resettlement. Indeed the East / West cultural divide is mirrored in popular responses despite the over-representation of right-wing, populist activism in the media.

At the international level, helping clear the global backlog of 26 million refugees would have positive security externalities for hosting states, create real incentives for refugees not to take part in smuggling models, and thereby decrease domestic concern in Europe over irregular migration and make it easier to differentiate between migrants and asylum seekers. Pragmatically, however, the plan would also have to be coupled with stricter and swifter repatriation for failed asylum seekers.

As in most other contexts, the durable way to “break” smuggling models is to credibly ensure (and regulate) a high-quality supply of the goods or service in demand rather than layer on more severe
prohibition. There would no doubt be hiccups and security concerns, but again, this would be nothing new, and for the first time since the creation of the Schengen area proactive measures could conceivably outweigh crisis summits and emergency funding for addressing irregular migration.

The thought experiment has two more steps to capitalize on European leadership. Increasing international resettlement numbers should be extended to willing partner states outside Europe. Interestingly, Hungary’s Foreign Minister Peter Szijjarto suggested as much at the 2016 New York Summit. A first step could be to clear the existing backlog in Europe, particularly from countries like Greece, Italy, Sweden, and Germany. The EU redistribution key is based primarily on GDP and population. If we imagine for a moment that America returns to its role of global leadership after the 2020 Presidential elections, adding the US’s GDP ($17.5 trillion) would almost double the EU’s ($18.5 trillion); its population of 320 million is roughly two thirds of the EU.

If we simplify the redistribution key to weight population and GDP equally, the US would take 43.7% of the 1 million refugees from the 2015-2016 crisis or to take up Europe’s portion of the global redistribution key for the period of one year. American intervention would provide overburdened Member States the room to lead by example in refugee integration. The change in scale could incentivize smaller states to meet their halved quotas and come out of the Višegrad orbit, taking the sails out of xenophobic, anti-EU agendas. The US would immediately agree to resettle just under half a million refugees from Member States who have already met their now substantially lower quotas. This is admittedly a large number, but an EU-style redistribution key inside the US would be more than manageable by US states (see “Fig.7.2” below).

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The plan faces two hurdles. Foremost is security. The US has working arrangements with Frontex and Europol, which maintains a database of migrants who have entered Europe. American vetting procedures are incredibly thorough and the US has significant military and diplomatic resources on the continent. The second is resettlement criteria. In order to ensure domestic support the scheme should revolve around points-based quotas to ensure a mix of labour skills, family reunification, and vulnerability criteria. US immigration legislation is well-tailored to this type of approach.

The following year the global resettlement quota could begin clearing the backlog from global South, refugee-hosting states. Including stable liberal democracies would offer an opportunity for the international community to share the burden and risk of resettling half a million refugees per year. Resettlement numbers would not significantly overburden states which already resettle a large
number of UNHCR-recommended refugees. The EU as a bloc would continue to resettle the highest proportion of the world’s refugees, though amounting to only 0.0005% of the EU’s total population per annum. To put this number in perspective, Canada accepted almost 321,000 immigrants in 2016, 40,000 of whom were resettled refugees.

A mixed points-based quota system of high and low skilled refugees could make the redistribution key palatable to domestic constituencies and improve economies in Europe which are already dependent on irregular migrants for large areas of the grey economy (see Ambrosini 2015). Resettlement could be expanded to willing Latin American and Asian states with high GDPs who are signatories of the 1951 Refugee Convention. More burden-sharing would mean lower resettlement numbers to all states involved. Clearing the backlog of protracted refugee populations could also incentivize hosting states to undertake small-scale naturalizations for urban refugees already integrated into host societies.

The immediate effect would be to undercut market incentives for dangerous irregular journeys to Europe. The long-term effect would be to reinvigorate Europe’s normative leadership and along with it the norm of burden-sharing in the international refugee regime. While no doubt politically challenging and resting on a number of assumptions about the direction of liberal internationalism, organizing the orderly resettlement of refugees would take advantage of the world’s only functioning global migration regime, and would be manifestly less challenging and more cost-effective than Schengen’s current plan which involves fostering stability and adequate protection measures in states like Sudan, Eritrea, Libya, Chad, and Niger.

8.3 Implications for Future Research

My project is entirely qualitative and limited to the European case. The rationale for qualitative case studies is primarily around the novelty of my approach and attempt at theory building around new indicators and causal mechanisms for Europeanization research. As Gerring argues “the identification of causal mechanisms happens when one puts together general knowledge about the world with empirical knowledge of how $X$ and $Y$ interrelate. It is in the latter task that case studies enjoy a comparative advantage” (2004: 348). To the best of my knowledge this is the first study to look empirically at the range of irregular migration systems around Europe’s peripheries and offer a single theoretical framework for understanding Europe’s impacts on those systems. I have provided
robust qualitative evidence, based on significant data from field work, for a causal relationship between Schengen’s compensatory measures, changes in irregular migration systems, and insecurity and regressive practices and norms in peripheral transit states, which I claim is evidence for Malignant Europeanization.

An obvious next step in research would entail building quantitative, composite indices and a dataset of malignant Europeanization indicators across transit states to test my findings. Changes in malignant Europeanization indicators could be measured through modifying and compiling existing datasets including Freedom in the World which measures civil liberties and political rights (Freedom House 2015), Corruption Perceptions Index (Transparency International 2015), Quality of Government, which measures good governance (Teorel et al. 2016), and Polity IV which tracks autocratic backsliding (Centre for Systematic Peace 2014). The Human Security Index, CIRI Human Rights Dataset, and Political Terror Scale all measure changes in human security.

International norm degeneration and regressive practices around international protection standards could be measured using a similar scale to the Migration Policy Index, which charts immigration and integration scores along 167 indicators including state policies towards immigrants. The latter would build on work which examines the process of norm degeneration and norm replacement in the international system (e.g. McKeown 2009; Foot & Walter 2011; Panke & Petersohn 2011; Krook & True 2012; Coleman 2013). My argument around norm degeneration and subsequent processes of policy emulation could be tested using diffusion models based on spatial and temporal clustering as in classic work on waves of democratization or market reforms (e.g. Simmons & Elkins 2004; Beck, Gleditsch, & Beardsley 2006; Simmons et al. 2008; Meseguer 2009; Plümper & Neumayer 2010).

A research project might test changes in these malignant Europeanization indices against changes in European foreign policy interventions. Changes in migration systems can be measured using data from UNHCR, IOM, Frontex, and scholarly datasets like the Norwegian Refugee Council’s Internal Displacement Tracking Matrix. A quantitative project of this type would build on work which examines the relationship between refugee flows with the spread of civil war and domestic instability (Salehyan & Gleditsch 2006; Salehyan 2008; Greenhill 2010). In addition, quantitative work might explore the relationship between changes in European domestic political sentiment and Schengen’s compensatory measures. Changes in European domestic political sentiment could be measured using


A more global approach would be to examine the policies and externalized migration governance of destination states in other regions, their effects on irregular migration systems, and indicators for security and regressive practices and norms. Two clear areas of study are Australia’s irregular migration policies and wider implications for Oceania, and the US influence on Central American irregular migration systems. Findings from such a research agenda could potentially challenge and undermine my claims for the exceptional nature of Schengen’s compensatory measures. However, the European case is unique in the number of irregular migration systems that share it as a common destination, and the implications for irregular migration on the European project, which is a sui generis case for regional integration. To state the claim more clearly, large scale irregular migration and burden-shifting between states is unlikely to undermine the American project. Nonetheless I welcome the intervention.

Finally, IR scholarship examines Europe’s international suasion in terms of its ability (or lack thereof) to produce liberal dividends – understandable given the EU’s stated foreign policy goals. A third, more qualitative research agenda would expand the scope of Europeanization in other important sectors, including banking, finance, rule of law, governance, and minority rights given these are core areas of Europeanization research. Fundamentally from an IR perspective, expanding research into Malignant Europeanization entails rethinking a number of assumptions about the progressive nature of the European project and its normative influence on the world.
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