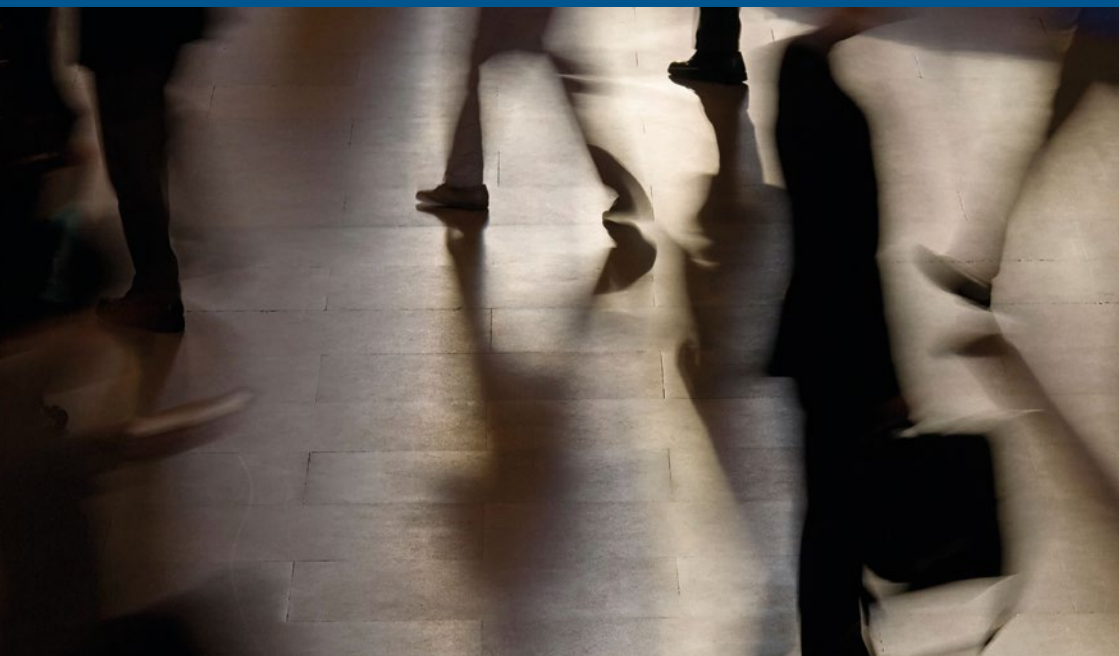




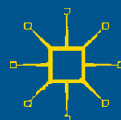
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THE EUROPEAN COMMISSION AND THE TRANSFORMATION OF EU BORDERS

Valentina Kostadinova



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The European Commission and the Transformation of EU Borders

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Palgrave Studies in European Union Politics

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To my family, with love

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LIST OF ABBREVIATIONS

AFSJ	Area of Freedom, Security, and Justice
CEAS	Common European Asylum System
CoM	Council of Ministers
DCFTA	Deep and Comprehensive Free Trade Agreement
DGs	Directorates General
EASO	European Asylum Support Office
EC	European Community
ECJ	European Court of Justice
EEAS	European External Action Service
EMoS	European model of society
EMU	Economic and Monetary Union
ENI	European Neighbourhood Instrument
ENP	European Neighbourhood Policy
ENPI	European Neighbourhood Partnership Instrument
EP	European Parliament
ESM	European Social Model
EU	European Union
EURES	European Employment Services
EURODAC	European Dactyloscopy
FMP	free movement of people
FRONTEX	the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union
GAMM	global approach to migration and mobility
GDP	Gross Domestic Product

HR	High Representative of the Union for Foreign Affairs and Security Policy
IGC	intergovernmental conference
JHA	justice and home affairs
OMC	Open Method of Coordination
PHARE	Poland and Hungary: Assistance for Restructuring their Economies
QMV	qualified majority vote
R&D	Research and Development
SEA	Single European Act
SIS	Schengen Information System
SPRING	Support for Partnership, Reform, and Inclusive Growth
TCNs	third country nationals
ToL	Treaty of Lisbon
UK	United Kingdom
US/USA	United States/ United States of America
VIS	visa information system

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The European Commission and Borders: Towards a Framework for Analysis

What a difference two and a half decades make! In the early 1990s, just after the end of the Cold War, there was considerable optimism about the future trajectory of international developments, despite the massive transformations international relations were undergoing. One of the ways in which this was expressed was the belief that this new era would be based on greater avenues for cooperation, driven by increased global interdependence. Already by the early 1990s, integration—the attempt to resolve transborder issues through increased governmental and societal interactions and the creation of distinct common rules (Best and Christiansen 2014: 402)—was getting established as a key approach for managing interdependence. In this atmosphere, there was a general expectation, best captured by the title of Ohmae’s book (1990), that all kinds of borders are about to become irrelevant. That is why when the European integration project, the most advanced in the world, was boosted through the establishment of the European Union (EU) in 1992, many saw in it the potential blueprint for the organization of this post-national borderless space. Furthermore, the Union’s supranational institutions, like the European Commission, were the novel actors that had emerged out of this transformation process and that were going to nurture it further.

Fast forward to the mid-2010s and it becomes clear that although many of the elements of the borderless world depicted in Ohmae’s work are present, the actual picture is much more ambiguous and complicated.

Similarly, despite their many successes, the EU and the European Commission are not unequivocally working towards the establishment of a borderless world (for a similar conclusion and further details, see Diez 2006). Instead, in the fall out of the 2008 financial crisis and subsequent economic downturn or the unprecedented refugee crisis, one can see not only that borders continue to exist but more importantly that they are constantly evolving. This is true in terms of both EU internal and external borders as well as with regards to the often less tangible distinctions between people. So, for example, the sovereign debt crisis brought to the forefront the sharp economic disparities between eurozone members and has contributed to the polarization of domestic politics across the member states, while simultaneously prompting the emergence of pan-EU movements sharing important characteristics, like Podemos in Spain and Syriza in Greece. Furthermore, given that relatively speaking EU citizens enjoy stability and prosperity in comparison to the multiple crises engulfing many of the EU's southern and eastern neighbours, an enormous number of third country nationals have tried to enter Union territory, many losing their lives in the process. This outcome is, in many ways, due to the advancement of measures at the emerging EU external borders that make it very difficult for certain categories of people to enter Union territory. Thus, overall, one area at the forefront of border transformations is migration and the regimes regulating it.

It is these types of processes, resulting from the behaviour of numerous individuals and groups in countless capacities and diverse settings in multiple areas of human interaction that leads to the transformation of borders we are witnessing today. Among other things, the delineations borders mark determine legal standing, rights and responsibilities, as well as the potential opportunities of all individuals and groups. Thus, a transformation in borders is going to have profound impacts on all kinds of areas of human interaction, not least international relations. This makes gaining a better understanding of the particular characteristics of borders in our time a worthwhile endeavour. In the field of international relations, it can provide insights into current trends in areas as diverse as identity formation and development, legal provisions, thinking about security or cooperation.

Simultaneously, because of the enormity and diversity of the above-listed issues, gaining a meaningful understanding of the contemporary border transformations depends on narrowing down the focus of the investigations. This will allow providing concrete and detailed insights

into the particular case study, illuminating specific aspects of the overall matter at hand. With this in mind, this study aims to contribute to the current literature and debates by exploring in detail the input into border transformations of one particular actor, the European Commission, focusing on key areas affecting migration.

This focus will highlight two particularly important issues. Firstly, it brings to the limelight the border transformations in the EU. Because of its *sui generis* character, the Union can be seen as a laboratory where many new trends first emerge. In turn, this allows insights into avant-garde developments and a glimpse of cutting-edge directions of travel, thus indicating the likely characteristics of future borders before they become more widespread. In other words, border transformations in the EU are possible manifestations of the kinds of borders that will characterize human interactions on migration issues in the decades to come and familiarity with them could be useful for practitioners of different kinds, policymakers or analysts. Secondly, focusing on the European Commission, a novel type of actor in international relations, allows examining its particular contribution to the transformation of borders. This will not only provide some insights into the particular interinstitutional EU struggles that bring about the changed borders on the European continent, but also open up avenues for analysis of the strengths and weaknesses of the specific ways of border construction as emerging from Commission articulations. The latter can suggest potential ways for improvement of current practices.

To address these matters and to answer its overall research question of how the European Commission contributes to the transformation of borders, the discussion in the subsequent chapters engages with the following issues:

1. Does Commission discourse promote the abolition of borders (thus, the emergence of a common space) or contribute to the emergence of new, different dividing lines?
2. How is the creation of common spaces justified? What measures are put in place for their establishment in practice?
3. What types of border are recreated as a result of the Commission articulations?
4. What (if any) are the distinguishing characteristics of the transformed borders in the EU?
5. What was the specific Commission contribution to the emergence of the changed borders in the Union?

The remainder of this chapter lays the groundwork for answering these questions by presenting and engaging with the relevant conceptual, theoretical and methodological issues and debates. The aim is not only to clarify the study's take on the pertinent debates, but also to explain the origin and meaning of the key notions that will be employed in the subsequent chapters. To that end the following section presents the key academic debates on the EU borders and the Commission. The next section advances the theoretical framework of the study, while the section afterwards engages with the methodological issues. The chapter finishes with a summary of the key points and an outline of the structure of the book.

EU BORDERS AND THE COMMISSION—KEY ACADEMIC DEBATES

The many developments contributing to the transformation of borders we are currently witnessing have inspired a lot of scholarly interest. This section reviews those pertinent to the integration–borders nexus and the role of the European Commission. More specifically, the focus is on the key debates on EU borders; borders and meta-theoretical debates; and the role of the European Commission in furthering integration. On each of these debates, the arguments of major contributors are presented, highlighting the main controversies. This enables situating the present study in the wider literature and highlighting its particular contributions.

Studies on EU Borders

The engagement with EU borders is prompted by studies, like those of Bialasiewicz et al. (2005), Balibar (1998), Diez (2006), Rumford (2006) or Delanty and Rumford (2005), which convincingly demonstrate the profound change in the organization of space in Europe as a result of the integration process. It has redefined the relationship between inside (the specific country) and the outside (the arena of international relations) through the transfer of sovereignty from the central state governments upwards towards the institutions of the EU and downwards towards local authorities. The result of this is the multiplication of spaces in Europe, a by-product of which is the increased number of borders. This borders' multiplication has two aspects, a qualitative one and a quantitative one. The latter refers to the rise in the sheer number of borders, as a result, for example, of the increase in sovereign states on the continent. The former,

qualitative multiplication of borders refers to the instances where the way borders operate has substantially altered in comparison to how traditional nation state borders work. Examples of qualitative changes in borders are boundaries emerging as a result of regionalization and multilevel governance. It is these kinds of processes that prompt border transformations, the development scrutinized here.

If, however, EU borders are being transformed by the integration process, as suggested by the above studies, the question about the specific nature and functions of the transformed EU borders comes to the forefront. In developing the conceptual tools for addressing this question, the investigation draws on the findings of several strands of EU and border studies.

The first one revolves around thinking about the spatiality of politics, an agenda suggested by Delanty and Rumford (2005: 120), and elucidates the functions of the transformed EU borders. It takes its cue from Kratochwil's proposition that: 'Changes in the function of boundaries throughout history help to illuminate differences in the nature and patterns of interaction of different domestic and international systems' (1986: 27). These different patterns of interaction can also be termed political ordering. Following this line of thinking, some have argued that borders and orders are intimately related and therefore should be studied in connection to each other (Albert et al. 2001). As Lapid puts it: '...acts of bordering (i.e., the inscription, crossing, removal, transformation, multiplication and/or diversification of borders) invariably carry momentous ramifications for political ordering at all levels of analysis' (2001: 7). Thus, grasping the functions of the transforming EU borders requires familiarization with the borders of past political orders.

Two such orders, the Westphalian (or traditional) and the medieval, are widely discussed in the literature as exemplifying distinctive key border functions. The ideal-typical Westphalian order is succinctly described as one focused on the control of a central authority over a particular piece of land through delineating the limits of its reach. The borders under this order are clearly and usually very precisely marked on the earth surface, visible and difficult to overcome. This results in obvious demarcations and definite hierarchies (the following studies are particularly relevant for outlining some of the underlying features of the Westphalian order and on that basis outlining the core characteristics of borders under it: Johnston 2001; Taylor 1994; Caporaso 2000; Krasner 1993, 2001; Murphy 1996; Ruggie 1983; Brunet-Jailly 2005; Walker 1995; Forseberg 2003; Kemp

and Ben-Eliezer 2000; and Philpott 1999). Contrary to this, the medieval order was one where a ‘patchwork of overlapping and incomplete rights of government’ existed (Strayer and Munro, cited in Ruggie 1993: 149). This overlap of authorities blurred the distinction between inside and outside, resulting in very different functions of borders. Namely, they were fuzzy, less salient and easier to transcend.

The Westphalian order and its borders have dominated world politics for more than three centuries. They, however, are being increasingly challenged, not least by the processes of integration and the EU (for more details, cf.: Rudolph 2005; Anderson et al. 1995; James 1999; and Wallace 1999a,b). This is so, as in the EU: ‘...it is increasingly difficult to visualise the conduct of international politics among community members, and to a considerable measure even domestic politics, as though it took place from a starting point [at the time] of 12 separate, single, fixed viewpoints’ (Ruggie 1993: 172; Schmitter 1998: 127 reaches a very similar conclusion). Thus, the EU has been compared to a medieval order (Strayer and Munro, cited in Ruggie 1993: 149). However, the ongoing debate about the best way of labelling the EU polity (cf. Caporaso 1996; Schmitter 1998; or Nugent 2010: 423–8) clearly demonstrates the inability to agree on a widely-accepted term. In turn, this demonstrates the lack of sufficient overlap between the EU and past political entities. Otherwise, the Union would be referred to as a particular past political entity, like an empire, for example. This suggests that its novel features require a unique label.

With reference to the political order associated with the EU, two key terms are of interest: multiperspectival (Ruggie 1993) and post-modern (cf. Diez 2004). This study prefers the latter, as it alludes to the advantages of the former (i.e. the non-Westphalian character of EU order), while providing more space for accounting for the innovations in borders characterizing this political order.

In that respect, a notable innovation is that the integration process configures contradictory functions of borders. As the discussion below will demonstrate with specific examples from EU studies, at present both processes of border construction and decreased border significance are discernible. The former are typical of the Westphalian order as they contribute to the emergence of discrete, self-contained political spaces. On the other hand, the latter, with their blurring of the inside/outside distinction, embody the medieval order.¹

The analysis into the transformed EU borders can be deepened further by also outlining the key elements forming the nature of the different types

of borders. To that end Geddes' distinction between territorial, organizational (functional) and conceptual borders is very useful. He defines territorial borders as the sites of entry (sea, land and air) at which the sovereign powers of the state to exclude are exercised. This territorial border is a particular instance of a more general type of borders that Cuttitta terms 'material borders'. According to him, they: '...can be marked and physically reproduced on the earth surface' (2006: 29). The second type of borders identified by Geddes is organizational (functional), which are the sites where conditions for the membership into the labour market, the welfare state and the national citizenship are specified. The third type, conceptual borders, encompasses a set of concerns centred on notions of belonging and identity to various communities (transnational, national or sub-national).² Cuttitta refers to this last type of borders as non-material ones that manifest differences between various kinds of non-material entities, such as dividing lines between ethnic and linguistic groups, cultures or classes (2006: 29). This study refers to these as identity borders.

The examination of the transformation of EU borders conducted in detail in the empirical chapters of this study revolves around these elements (see also Table 1.1). A particular undertaking, i.e. by the European Commission, would fall in a certain section of the table, depending on the nature and functions of the borders thus configured. It needs to be emphasized, however, that the differentiations thus made are most accurately conceived of as ideal types. In other words, the aim is to identify and spell out the key features of borders, so that the analysis in the empirical chapters is enabled. An important consequence of this is that in practice one can identify border elements different from those discussed. For example, the establishment of a territorial border is very likely also to have effects on functional or ideational differentiations, pointing to important interconnections between the different elements of a border. However, for analytical purposes, the empirical chapters have focused on examining one particular element of a border (i.e. a territorial or identity one) at a time, which is highlighted by the specific case study at hand. The overall

Table 1.1 Key types of borders

<i>Configuration of borders/type of border</i>	<i>Territorial</i>	<i>Functional</i>	<i>Identity</i>
Construction of borders			
Diminished significance of borders			

Table 1.2 Major studies related to the construction/diminished significance of borders in the EU

<i>Configuration of borders/type of border</i>	<i>Territorial</i>	<i>Functional</i>	<i>Identity</i>
Construction of borders	Wouters and Naert (n.d.); Monar (2004); Kostakoupolou (2000); Huysmans (2000)	Carrera (2005); Kvist (2004); Jileva (2002)	Neumann (1999); Sztompka (2004); Bilgin (2004); Pace (2004)
Diminished significance of borders	Christiansen et al. (2000); Delanty and Rumford (2005); Lavenex (2004)	Favell and Hansen (2002); Apap (2002); Guild (1996)	Mungiu-Pippidi (2004); Pavlovaite (2003)

view of current borders transformation emerges from putting these different pieces back together; by accumulating the insights provided by each case study.

To illustrate the practical applicability of the Table 1.1 matrix some key contributions on EU borders are positioned in their respective places (Table 1.2). This also enables situating the present study better within the existing literature and highlighting its contribution.

This brief overview of key empirical contributions to EU borders allows drawing several important conclusions. Firstly, a key debate on EU borders has been whether they have become more or less salient and whether crossing the Union border has become easier or more difficult. In that respect, some scholars have put forward the notion that the EU has hard borders (Grabbe 2000: 527; Monar 2000), as opposed to the arguments of those emphasizing their fuzziness (Christiansen et al. 2000). Related to this, secondly, the overwhelming majority of the studies emphasize a particular aspect of EU borders' transformation (i.e. the construction of borders or the diminished significance of borders). A noteworthy exception to this trend is Smith's investigation into the interrelationship between the politics of inclusion and exclusion in the EU and the changing European order (1996). It demonstrates how these two tendencies occur simultaneously as a result of the different policies adopted at various levels in the Union.

Thus, the existing research on EU borders shows that as a result of the process of integration, a new political order is emerging. It is transforming traditional, national borders (the borders of the member states) in a variety of important ways. Furthermore, the literature provides useful ways

of conceptualizing borders that will inform the analysis in the following chapters. The major shortcoming of the current studies is that they tend to end up providing a limited and one-sided account of the relationship between borders and integration. This is a grave problem because it prohibits a comprehensive account of the current developments and instead presents a distorted picture. In light of this, one of the central concerns of the research is to capture the parallel occurrence of the processes of border construction and the diminished significance of borders. This will contribute to the current debates in several main ways. Firstly, it will provide a much more comprehensive coverage of EU border developments through highlighting the simultaneous tendencies towards decreasing the salience of borders and the construction of borders for different types of borders. By doing this, secondly, it will present a much more realistic account of the processes that are currently taking place. The third key contribution, building on the borders–political order nexus, is to advance a comprehensive account of the nature and functions of borders under the emerging post-modern political order in the EU.

This ambition, however, necessitates the development of a way of studying borders. The first step in this journey is familiarization with the contemporary debates on this matter. The next section presents them.

Theoretical Approaches to Border Studies

This section presents the main ways in which border studies have conceptualized borders and links the assumptions prompted by these considerations to the broader meta-theoretical debates inspiring them.

Following the general trends in social scientific research, in the last decades, border studies have experienced renewed interest and engagement with ontological and epistemological issues. Consequently, recent border studies research has been, broadly speaking, divided into positivist and constructivist (for more details on the positivist–constructivist debate, cf. Smith 1999; Adler 1997; Marsh and Furlong 2002). Following the then dominant meta-theoretical views, prior to the 1980s, borders were seen as a given reality, concrete empirical phenomena (Paasi 2005: 663). Thus, they were defined as a spatial fact that has a sociological impact (Williams 2003: 28). Influential studies embodying this approach are the contributions by Prescott (1978) and Minghi (1997); Rumley and Minghi (1991); and Buffon and Minghi (2000). For a review of border studies in political geography, see Minghi (1963).

However, by the end of the twentieth century, this conceptualization of borders was increasingly criticized, which also spurred ways of thinking about borders that overcame some of the problems encountered by the traditional approaches (Kolossoff 2005: 613). Thus, since the late 1980s, border studies have increasingly utilized constructivist understandings and focused on the borders' massive visibility in the shaping and controlling of the lives of people and their huge importance for the questions of war and peace (Williams 2003: 30). In distinction to the traditional border studies methods, these inquiries are based on the presumption that borders as delimiters of sovereignty are constructed and reconstructed in a search for control, linked to the nature of political power (Williams 2003: 28). So, they highlight the social dimension attached to boundary delineation (Pace 2004: 302). Therefore, this type of studies predominantly critically investigates borders as differentiators of socially constructed mindscapes and meaning (van Houtum 2005: 673). The major tools used by the proponents of this approach are the examination of discursive practices, deconstruction and the use of critical theory (Nicol and Minghi 2005: 680). Their contribution is to underline the ways in which studying and modelling international politics are also acts of international politics (Williams 2003: 37). Paasi (cf. 1991, 1998, 1999, 2001) and Newman (2001; 2003; Newman and Paasi 1998), as well as most of the studies reviewed in the previous section exemplify this type of border research.

Some of the most contentious issues to emerge out of the positivist–constructivist border studies debates are questions such as what are borders a result of, which are the most appropriate tools for their examination and where should one look when studying them? The following section engages with this study's take on these matters. Before this, however, the last main debate of relevance to the study is reviewed briefly.

Debates on the Role of the European Commission in the EU Integration Process

This is the debate on the European Commission's role in the process of integration and it helps explain this study's focus on that particular institution's contribution to the transformation of borders.

In a nutshell, the focus is on the Commission because this is an institution that by its nature is bound to promote integration, the process identified above as one of the key reasons for the transformation of borders. Thus, a focus on an institution like the Commission will not only provide

insights into a laboratory where border transformations are actively promoted but will also highlight the distinctive characteristics of the transformed borders as they emerge out of this laboratory. This logic, however, poses two pertinent questions, which are addressed below. Firstly, why is the Commission bound to promote integration by its nature and secondly, is there agreement on its ability to do so in practice?

EU studies debates suggest two key reasons why the Commission would want to further integration: its legal duties under the Treaties and because more integration is expected to increase the powers of the supranational institutions, like the Commission. With regards to the first, the legal duties, the Commission is charged with acting in the interest of the whole Community. Thus, traditionally the Commission is seen as impartial and neutral (cf. Nugent 1997: 13). According to Article 157, point 2 of the Treaty of Rome, establishing the European Economic Community, the Commission has to act: ‘in the general interest of the Community’ and to be ‘completely independent in the performance of their duties’. Subsequent treaty changes have retained these provisions. In juxtaposition to these responsibilities, other key EU institutions, like the Council of Ministers (CoM) or the European Council, protect the interests of the member states. This division of labour between the various EU institutions is a result of the careful balance between ensuring the achievement of the aims of integration and the protection of the autonomy of the member states (there is a rich literature on the EU’s institutional set up that explains this division in great detail; cf. McCormick 2011; Dinan 2010; Peterson and Shackleton 2002; Nugent 2010; Hix and Høyland 2011; or Bache et al. 2015). The latter is a necessary prerequisite that makes integration possible in the first place. The need for such a division of labour points to the difficulties in achieving agreed upon targets that any integration effort is likely to face. The responsibilities of each type of EU institution mean that when differences occur, it will be the supranational ones that in protecting the interests of the Union as a whole would most likely argue in favour of integration. In turn, this maintains the existence of crucial conditions leading to borders transformation.

Therefore, under conditions of integration, conflicts do not disappear altogether but are resolved in a different way. This issue is explored in an early contribution by Haas. He looks into different ways of resolving conflicts and relates them to different levels of integration. His argument is that when integration is more advanced, there is greater possibility to find a solution different from traditional diplomacy’s ‘lowest common

denominator'. According to him, such an outcome is possible when an international body that performs mediatory services to the states involved exists (1961: 367–8). As Haas points out, crucially, these more advanced types of conflict resolution usually imply the expansion of the mandate of the supranational agency (cited in Eilstrup-Sangiovanni 2006: 95). It is precisely this link, between resolution of disagreements through further integration and the expansion of the mandate of the supranational institutions that constitutes a plausible explanation why one can expect supranational institutions to support more integration. Importantly, even intergovernmentalist scholars acknowledge and accept this predisposition of supranational institutions to promote integration (cf. Moravcsik 1999b: 492).³ So, the second reason for supranational institutions to promote integration is the expectation that this will expand their own powers and competences, the ultimate goal of every political interaction.

More recently, however, the insights provided from such traditional approaches have been challenged. Notably, some scholars have moved on from looking at the Commission as a political actor and from scrutinizing its interactions with other bodies (i.e. other EU institutions), focusing instead on investigating its inner workings. Inspired by public administration scholarship, such studies conceive of the Commission as a bureaucracy and aim to explore its differentiated internal organization. Such an approach challenges the traditional view of the Commission as a unitary player. It highlights the potential diversity within the institution, with some going as far as saying that it may in fact be the Commission's internal processes that hold the key to understanding the preference formation and therefore the external behaviour of this organization (Kassim et al. 2013: 4).

Among other things, this enables questioning the assumption in traditional EU studies, discussed above, that the Commission is inclined to support greater integration as it will lead to centralization of power in Brussels. Two studies, Elinas and Suleiman (2011) and Kassim et al. (2013), engage with this matter. The former is a smaller study focused on top Commission bureaucrats, while the latter is more comprehensive, spanning the various levels of the institution. Elinas and Suleiman's findings confirm the Commission bias in favour of deeper integration and more supranationalism regardless of the officials' nationality or organizational experience (2011: 924). Kassim et al.'s findings, however, are more nuanced, going somewhat against the bureaucratic politics expectations of traditional EU studies. More specifically, although on the whole they

find that Commission officials do want more EU authority, the study also shows notable variations both across officials and policy areas. This leads the scholars to conclude that the traditional bureaucratic politics argument is overrated (Kassim et al. 2013: ch. 4 for more details).

Although this suggests that the expectation that the Commission will promote integration may be somewhat exaggerated at times, it does not provide compelling evidence against it. This is the case primarily because the two studies referred to above reach contradictory conclusions and Kassim et al. (2013) only qualifies the traditional expectations about the Commission's preferences. Furthermore, this study finds that officials from the external Directorates General (DGs) are more likely to support centralization than the average official (Kassim et al. 2013: 124). This means that the officials involved most closely in the making of most of the policies examined in this study (border controls, European Neighbourhood Policy [ENP], free movement for work purposes) are likely to conform to the traditional expectations about the Commission promotion of integration. In turn, this preserves the assumption that as an institution, the Commission is conducive to the transformation of borders, posing the question, to be examined in the empirical chapters of this study, about the specific ways in which these transformations are articulated.

Neo-functionalism has over the years developed an explicit account of how exactly the Commission advocates more integration. This is captured by the notion of 'cultivated spillover'. It is one of the three types of spillover identified by neo-functional literature (for the different types of spillover, see Eilstrup-Sangiovanni 2006: 94–5; Tranholm-Mikkelsen 1991: 6; Niemann and Schmitter 2009). It provides: 'a specific theory of how once created, supranational institutions act as strategic advocates on behalf of functional linkage and deeper/wider integration' (Rosamond 2005: 244). In some academic literature, like public policy, such advocates are labelled 'policy entrepreneurs' (cf. Kingdon 1995). According to Burns: 'Entrepreneurs aim to induce authoritative political decisions that would not otherwise occur' (cited in Moravcsik 1999a: 271). This comes about as a result of the policy entrepreneurs promoting policy proposals and ideas. Kingdon outlines personal interests and the promotion of their values as reasons for the entrepreneur to invest a wide range of resources (time, money or reputation) into this advocacy (1995: 122–3).

As argued above, there are strong reasons for the European Commission to try to further integration. Consequently, it will be promoting a particular type of policy proposals and values, which can be expected to favour

creating an EU common area. This is why integration studies often refer to the Commission as a supranational entrepreneur (cf. Pollack 1997a; Moravcsik 1999a; Nugent 1995). The Blue Card Initiative, discussed in Chap. 3, and some of the Commission articulations on the ongoing refugee crisis, discussed in Chap. 2, are examples of such entrepreneurship. Functional spillover has also been an important tool used by the Commission in its attempts to promote further integration. As the empirical chapters will demonstrate in detail, when this strategy is employed, at a discursive level there are articulations that link the achievement of the goals of the internal market with the development of integration in other policy fields (such as border controls or social policy).⁴

However, the Commission's ability to successfully exercise independent entrepreneurial leadership is one of the major issues of disagreement between neo-functionalism and its main theoretical rival, intergovernmentalism. The latter has maintained that: 'supranational organizations such as the European Commission exert little or no causal influence' (Pollack 2001: 225). Some of the most important contributions supporting this position have come from Moravcsik (1999a) and Pollack (1997a,b, 1998). Ultimately, this is a debate that goes back to the ontological positions of what integration is.⁵ In my view, the focus of intergovernmentalist accounts on grand treaty bargains is too limited an understanding of integration. As such, this position is in danger of not paying attention to other important developments that are indispensable parts of integration.⁶ One of the main weaknesses of intergovernmentalism is that because it regards interests (national interests) as externally given, it cannot provide a satisfactory account of how the agenda was set and the decision-making situations were framed (Diez 1999: 363). Therefore, the neo-functionalist understanding of integration as a process better captures such developments. This conception emphasizes the importance of day-to-day inputs in integration, which: 'stress that the enmeshment of member states in the larger framework of integration changes their identities, limits their institutional choices through path-dependencies, and accordingly strongly influences their interest formation' (Diez 1999: 360). In such an understanding, the Commission not only has a good reason to promote further integration but is also well placed to do so.

Thus, the neo-functionalist argument provides a compelling case that the Commission will favour and is able to promote decreased salience of internal EU borders. It does, nevertheless, have a serious flaw when it comes to other aspects of borders transformation. Namely, because of its

focus on providing an account of the internal EU developments, it does not consider the processes at the external EU borders. Indeed, it anticipates the emergence of dividing lines at the outer edges of the Union but does not contain more in-depth analysis on the issue. I return to this matter below after explaining in detail this study's understanding of borders.

TOWARDS A THEORETICAL FRAMEWORK

This section aims at situating this study within the debates outlined above through spelling out the ways borders are understood and developing an account of how the Commission influences the configuration of EU borders. Building on these, different ways in which the Commission can configure various borders under integration are outlined. This maps out the organization of the analysis in the empirical part of the study.

What are Borders?

The brief overview of the meta-theoretical debates on the study of borders showed two broad ways of understanding this term. Engaging with them, this section elaborates on the way this study understands borders.

In tune with constructivist views, here borders are seen as a socially constructed phenomenon. Thus, rather than conceiving of them as independent reality existing beyond people's knowledge, they are thought of as a phenomenon created in a process of social interaction⁷ that gives rise to specific social practices of inclusion and exclusion (Berger and Luckman 1967 explain in detail what social practices are, how they emerge and how they get established). Such social practices of inclusion and exclusion are also referred to as 'bordering practices'. Crucially, as constructivists never tire of emphasizing, these bordering practices and the institutions maintaining them are objectively given to the individual in the sense that they exist over and beyond him/her and they appear as given, difficult to change and self-evident (Berger and Luckman 1967: 76–7). The reason is that the practices and institutions in question are results of social interaction. Therefore, no single actor can be influential enough to be able to modify and transform them alone. The end result will always be an outcome derived from the activities of all the parties involved in the relevant processes and in that sense, it is not entirely subjective for any one of them.

Following this line of thinking, the transformation of EU borders occurs because the process of integration alters previously stable inclu-

sion–exclusion practices. For example, traditional divisions along the lines of national states are replaced by the novel distinction between EU and non-EU states. Crucially, these changed bordering practices also modify the meaning of borders. Thus, getting to grips with the transformation of EU borders requires the ability to interrogate the ways in which meanings are created. Constructivists argue that the meaning of things ‘is conferred by historically specific systems of rules’ (Howarth and Stavrakakis 2000: 2) and advance the concept of discourse as the means for unpacking the creation of meaning. This term is increasingly popular. However, its growing popularity has been accompanied by a proliferation of ways to employ it.⁸ Here the understanding of discourse follows post-structuralism, denoting ‘historically specific systems of meaning which form the identities of subjects and objects’ (Foucault, cited in Howarth 2000: 9). In these systems: ‘meaning depends upon a socially constructed system of rules and significant differences’ (Laclau and Mouffe, cited in Howarth 2000: 8).

The post-structuralist account of how these significant differences function builds upon structuralist work. They agree with Saussure that the meaning of a word is a result of the difference between this word and other words. However, post-structuralists refute the neat correlation between a signified (the object) and a signifier (the word) (this brief summary is based on Eagleton (1996: 110)). The lack of such a correlation is exemplified well with the existence of metaphors, which use the same signifier to refer to different signifieds. This is possible due to the absence of a stable relation between signified and signifier; because nothing derives its meaning from outside this interplay between signifiers. For post-structuralists, this has two important repercussions. Firstly, as Derrida shows, it is not possible to define anything outside language—every definition ultimately depends on other words. Secondly, all meaning is relational, i.e. it is based on particular structuring of the relations between different words (in Sarup 1993: 32–8; Eagleton 1996: 110–16). Furthermore, post-structuralists argue that there is always something more than what is expressed in a particular text. This ‘more’ resides in the resistances that the text encounters, in the unexpected ways in which the terms it employs are interpreted, in the unassimilated shifts in surface significations that reveal them to have hidden depths (Connolly 1994: 38). Therefore, they claim that the meaning of a text is always contingent upon other texts, also known as intertextuality (cf. Brown 1994: 224).

Hansen explicates further how meaning is created in discourses by highlighting the simultaneous occurrence of the processes of differen-

tiation and linking. Linking is the positive process of spelling out the particular characteristics of the signifier in question (i.e. fork), while differentiation is the negative process of delimiting the signifiers that are not the signifier in question (i.e. spoon, knife, ladle) (Hansen 2006: 19).⁹ Due to the impossibility of defining anything outside of the interplay between signifiers, it is possible to construct different meanings for the same signifier. These different meanings are an outcome of the application of different processes of linking and differentiation with regards to the same signifier. For example, the signifier ‘meat’ can be (and is) linked and differentiated in a variety of ways (i.e. linked with nutrition, health, strength, power or butchering, torturing, waste of resources, unnatural food for humans and differentiated from fruits and vegetables). Each of these two systems of linking and differentiation represents a particular discourse on the signifier in question, in our case meat, and produces a specific meaning of it (in the first case it is a positive one, contributing to humans’ well-being, while in the second case the meaning is negative, associated with harmful or unpleasant activities and results). This possibility to have different representations on one and the same issue is the reason why post-structuralists regard discourses as inherently unstable, although they are highly structured (Hansen 2006: 20–1).

Thus, the transformation of EU borders is a process accompanied by struggles over the specific meanings of the changing bordering practices and the specific inclusion–exclusion arrangement enacted in the Union. This highlights the highly political nature of the processes involved in the production of meaning, including in settling on a dominant understanding of the transforming EU borders. Laclau and Mouffe’s groundbreaking work has developed the theoretical account of how this happens.¹⁰ A crucial point about this process is that even when there is a hegemonic discourse, it cannot completely suppress alternative representations due to the above-mentioned inherent instability of discourses (Howarth and Stavrakakis 2000: 9 for more details). Thus, in the ongoing struggles over fixing the meaning of the transforming EU borders, various agents will try to promote their own preferred vision, expressed through their discourse. At any given point in time, however, the ways in which inclusion–exclusion issues in the Union are resolved are some kind of mixture between the articulations advanced by the many agents involved. This is due to the fact that, following Berger and Luckman’s argument, no one is influential enough to decide single-handedly on the matter.¹¹

One such discourse is that of the Commission. It reflects the ongoing struggles between the actors involved on how the inclusion–exclusion issues in the EU should be settled. On questions of further integration and opening up borderless spaces within the EU, the Commission displays an overriding tendency to act cohesively in support of them for reasons explained above.¹² Nevertheless, in its discourse, other influences and opinions will be expressed as well. Because of that, overall, I do not regard the Commission discourse as belonging to a particular actor or institution. The only sense in which this discourse can be seen as the Commission’s is because the overwhelming majority of the documents studied, as explained below, are issued by the Commission. Hence, I do not assume that there is a single actor behind this discourse. It expresses a plurality of voices. So, the bordering practices articulated in the Commission discourse will inevitably be affected by the enunciations on border matters of other interested parties. Moreover, because of the possibility to have various representations on the same issue, the discourses on borders advanced by different players can be expected to contain significant differences in their articulations. This diversity of voices is an important reason why discourses are ridden by contradictions. As the analysis in the empirical chapters shows, Commission discourse is no exception, which in turn creates ambiguities in the ways it configures EU borders.

One last important point about discourse, addressing the key criticism to post-structuralists that in their interpretation the term ‘discourse’ becomes an all-encompassing concept, is to clarify the relationship between discourse and language. Post-structuralism uses language as the primary tool for its analysis but is not concerned with language per se. Instead, post-structuralists are focused on the enabling/disabling of specific conducts by the articulations sanctioned in language. Following these ideas, the term discourse is understood here as having a wide meaning, referring to structured systems of signs that create knowledge about the world. Therefore, discourses are formed not only by language but include a broader number of signs. Despite that, language has a primary position among other signs because ultimately it is by communicating through language that the meaning of the other signs becomes intelligible. This is why this research examines texts in a narrow depiction.

How Does the Commission Influence EU Borders Configuration?

With this understanding of borders in mind, this section delves into how the Commission can sway the struggles over the transforming EU border-

ing practices in its preferred direction. Ultimately, this depends on the powers and responsibilities of the Commission within the Union's political system. Given this system's uniqueness and complexity, as well as the periodic changes introduced with Treaty reforms (the latest one being the Treaty of Lisbon [ToL]), Commission powers and responsibilities not only fluctuate but also have been evaluated differently by various scholars. Thus, here, the key developments affecting the Commission standing on EU border-related issues are presented and the main arguments of how the Commission sways border-related processes are outlined.

The transformation of borders triggered by the European integration process is a development sweeping across a great many areas of human activity, as indicated by the different types of borders outlined above. In turn, this signals the likelihood that various policy areas will be affected. Thus, as explained in more detail below, in an attempt to gain a comprehensive picture of the EU borders transformation, this study looks into four policy areas: border controls, free movement of people, social policy and ENP. The EU's complexity, however, has led to divergent ways of governing each of them, which affects the Commission's ability and means of contributing to their respective borders transformation. At a most basic level, since the Maastricht Treaty, which introduced the pillar system, the Commission has been a key player in first pillar (supranational) policy areas, where the community decision-making method applies. However, it has had a very circumscribed role in the second and third pillar (inter-governmental) ones. Although the ToL formally abolished the pillar system and generally speaking expanded the areas in which the Commission plays an important role, it retained the multiple decision-making methods and the logic of according different powers and prerogatives of the key EU institutions depending on the policy area at hand (Bache et al. 2015: esp. chs. 9–10 and 12 for more details). In light of this, each empirical chapter outlines the key features of the governing architecture of the specific policy area discussed, clarifying the particular Commission abilities to affect border transformations in it.

The other main reason for the varying Commission input into the changing EU bordering practices is that consecutive Treaty reforms have altered the balance of power between the key EU institutions. This has attracted significant scholarly interest on the key Commission responsibilities within the EU political system and has highlighted important disagreements over their impact in practice on the Union political process. The key points of these debates are summed up below, explicating the

ways in which the Commission influences the configuration of EU borders and highlighting its limitation in this process.

EU studies research agrees on the overall Commission role within the EU political system, usually characterizing it along the lines of executive power. However, as Hix and Høyland have argued, the powers of modern executives are twofold: political and administrative. According to them, in the EU, the governing of long-term matters is vested in the Council (the European Council and the CoM), while the Commission governs the short-term, more administrative, matters (2011: ch. 2 for more details). In essence, the Commission is a technocratic body. The individuals working there are selected based on their expertise rather than their political savviness, while as an institution the Commission is prone to conceiving of policy design and implementation as a process guided by explicit rules and phases that are clearly spelled out and judged by particular outputs. Thus, formally, the Commission is restricted in the EU institutional architecture as it is not the body charged with deciding the overall long-term, political goals of the Union. Simultaneously, it is likely to be well-versed in the EU technical and procedural details, able to use them to its advantage. In terms of borders transformation, this means that the Commission has to be cautious when and how it puts forward its preferred policies as it is reliant on their acceptance by other institutions. Still, it has opportunities to benefit from the course of events if it manages to make the most of the emerging possibilities as they arise.

Furthermore, some recent Treaty provisions are seen as having exacerbated the Commission stance within the EU political system. For example, the introduction and gradual spread of the co-decision procedure (renamed ordinary legislative procedure under the ToL) has been seen as having had a negative effect on the Commission powers. It now has to take into account the views of more institutions (the European Parliament [EP]), which enables the potential circumvention of the Commission legislative text if the CoM and the EP agree on a different text (Bache et al. 2015: 241; see also the summary provided in Burns 2004: 3–6). Also, the establishment of the semi-permanent position of President of the European Council under the ToL, has diminished the Commission's ability to mediate between national interests at the summit meetings (Nugent and Rhinard 2015: 387–8 summarize the key ways in which Commission powers within the EU can be seen to have declined).

However, other important points countervail these developments that among other things restrict the Commission's ability to affect EU bor-

ders transformation. Firstly, some have argued that the literature on co-decision misrepresents the Commission's role under this procedure and overstates the Commission's weakness in it (Burns 2004). Secondly, others have more generally cautioned against overstating the Commission's decline in the EU system (Nugent and Rhinard 2015: 388–90 for more detail). Thirdly, going further, several studies have maintained that the Commission still 'plays a central role in shaping the course of European integration' (Schmidt 2004: 105; see also Schmidt 2000 for further details on how the Commission influences EU decision-making). These indicate that on the whole the Commission remains a key player in the EU policy processes and can therefore also influence the transformation of EU borders, affecting the particular configuration of inclusion–exclusion. To understand how this comes about and to outline the key Commission leverages, it is necessary to look in detail into the specific powers and responsibilities the Commission is vested with in order to enable it to perform its functions within the EU policy processes.

As Wonka summarizes, the Commission is active in the areas of policy-making, policy implementation and monitoring, and external representation (2015: 85; see also Hix and Høyland 2011: 34 or Bache et al. 2015: 237–46). It can utilize formal and informal tools in an effort to secure acceptance for its preferred configuration of EU bordering practices. The key among them are the Commission formal and informal agenda-setting powers, the implementation of EU policies (like monitoring the transposition of EU legislation into national law or undertaking infringement procedures) and the dispersal of EU funds. Different tools may be used by the Commission depending on the policy area at hand. For example, with the communitarization of the Area of Freedom, Security and Justice (AFSJ) post-Amsterdam Treaty, the Commission ability to employ formal agenda setting has improved. However, the limited communitarization of the ENP or aspects of social policy mean that the Commission is likely to resort to its implementing and monitoring (administrative) powers or to use its budgetary responsibilities as a way of inducing acceptance and adherence to the bordering practices it promotes. Below, the tools at Commission disposal that make it especially apt to do so are discussed.

One of the most powerful tools in the Commission kit is its right to formally propose legislation. Crucially, in areas under the Community method, it is the only institution able to do so. This is what Pollack has termed formal agenda-setting power (1997a: 121–8). Being the sole legislation initiator allows the Commission in the words of Nugent to have a

'very significant impact on what policy issues are considered by the formal decision-takers, in what terms they are considered, when they are considered, by whom they are considered, and with what receptivity they are considered' (1997: 23). Thus, following the reasoning of neo-functionalists, in the renegotiation of the bordering practices in the areas of free movement of people, border controls (after 2001) and some aspects of social policy, the Commission can facilitate the decreased salience of internal EU borders by wording its proposals in a particular way, by submitting them at a time which is favourable for their acceptance and subsequent adoption, or by framing a specific issue as related to achieving the aims of the single market. As the analysis in the empirical chapters shows, the employment of such tactics can be easily seen in the discourse of the European Commission. Of course, in practice, other institutions (such as the CoM) have an important input in the formulation of the official proposals, which among other things involves bargaining between institutions on the inclusion of their preferred policies in the official legislative proposals in various policy areas (Lindberg and Scheingold 1970: 87–98 provide a good illustration of that). Despite that, the formal powers of legislative initiative vested in the Commission inevitably give it a strong starting point in this process.

When the Commission does not enjoy the right of being the sole legislation initiator, it utilizes its informal agenda setting powers. Even scholars that are in general quite sceptical of the Commission ability to successfully perform an entrepreneurial role, such as Pollack, acknowledge this. According to him, the Commission is particularly well placed to set the agenda informally: 'the Commission has no monopoly over informal agenda setting, but it may nevertheless have a comparative advantage over other potential agenda setters, such as member governments or private actors' (1997a: 126).

This stems from the close Commission involvement in the day-to-day running and administration of many EU policy areas, including those discussed in the subsequent chapters. Through carrying out the decisions that are taken and through executing its monitoring and budget-managing responsibilities, it acquires knowledge wider and deeper than that of the other major EU institutions. Thus, Nugent talks of the Commission as a leading repository of knowledge and expertise about EU policies (1995: 608) and possessing: 'extensive technical expertise and a fund of information about the content and impact of EU policies' (2001: 210). This privileges it as it makes it the most likely actor to be asked for advice on any of

the current or future EU policies, in turn allowing the Commission to try to push ahead by putting on the formal agenda any propositions it deems appropriate. Furthermore, as Coombes argues: ‘administrative decisions may involve deciding whether or not to enforce particular regulations on the basis of the facts of the case, applying policy to particular circumstances, or interpreting a policy which is expressed only in very general terms’ (1970: 237). Also, as examples like the Commission role in coordinating international assistance to former communist countries show, in the past it has managed to seize existing opportunities and to improve its own stance vis-à-vis other bodies (Nuttall 1996: for more details).

Crucially, it is to be expected that in carrying out its responsibilities the Commission will favour further integration, hence, diminishing the significance of internal EU borders. Such an expectation is further justified by the widely held belief in the Commission itself that it has a duty to incite integration. As Ludlow argues: ‘the function of *animateur* permeates the whole structure and ethos of the institution’ (cited in Nugent 1995: 610, emphasis in the original). Consequently, as anticipated by neo-functionalists, the Commission is also predisposed towards contributing to the emergence of salient external EU borders (for more details on the ‘end game’ as anticipated by neo-functionalists, cf. Schmitter 1969, 2004; Puchala 1972; Lindberg 1963; Haas 1961, 1970).

Nevertheless, neo-functionalists do not analyse in detail the Commission’s contribution to the processes at the outer edges of the Union. One of the contributions of the present study is to fill this gap. It argues that the Commission has facilitated the emergence of salient external EU borders. Firstly, it has accepted and used the assumptions on which certain EU policies are based. Secondly, it has utilized spillover in support of further EU-level cooperation and towards harmonization of the legal provisions of the member states. Thirdly, the Commission has advanced the emergence of common identity in the EU through articulations of the ‘Other’ and common threats to the Union. All of these contribute to the emergence of the EU’s external borders by sharpening the distinction between the Union and other parts of the world. Furthermore, following the varying competences of the Commission discussed above, in some policy areas it plays a more independent role, while in others it is a more passive supporter of the preferences of other EU institutions. The empirical chapters provide detailed empirical illustrations of these claims.

In sum, Lequesne summarizes well the capacities and limitations on Commission contribution to the transformation of EU borders: ‘...

the EU Commission agents can mobilise specific resources in order to behave as “policy entrepreneurs” in the EU polity with a certain degree of autonomy from the national governments ... this policy entrepreneurship is also constrained by endogenous and exogenous factors which make the Commission dependent on the national governments in the EU polity’ (2000: 37). In practice, however, it is very difficult to examine these constraints because as Pollack points out, the Commission is prone to anticipating the reaction of the Council to its proposals and to tailor them accordingly (1997a: 110; Hix 2005: 53–7 also makes this argument). Thompson et al. (2004: 241) show that one Commission tactic is to table radical proposals, expecting their watering-down in subsequent negotiations. However, such anticipation poses a bigger problem when the Commission discourse is perceived as having a single author. If one understands it as expressing multiple voices, this becomes less important because by definition the discourse is prone to external influences. It is not expected to be completely coherent. In fact, to a large extent, the ambiguous configuration of borders in Commission discourse is a result of the contradicting tendencies that are promoted by various actors, as illustrated by the discussion in Chap. 3.

The question of the Commission anticipating the Council reactions to its proposals and adjusting them accordingly also brings to the fore another crucial issue that has to be addressed, why in the empirical chapters the silences and contradictions in Commission discourse are interpreted as constructing borders. Alternatively, these silences and contradictions can be seen in a much more positive way as the Commission wanting to go further but currently having to make concessions, which are only tactical. The reason is that, as illustrated by the Blue Card Initiative in Chap. 3, regardless of the Commission’s intensions or long-term aims, on a discursive level, its current articulations give rise to a particular system of inclusion and exclusion transforming borders.

What Borders Does the Commission Discourse Configure?

Drawing together key points from the above discussion, this section aims to outline the main kinds of EU borders transformation. Thus, it classifies the various types of borders constructed and reconstructed through Commission discourse, structuring the analysis of the Commission documents in the following chapters. This also provides the background informing the interpretation of the Commission discourse in the empirical part of the study.

Here, borders are classified along two main lines. Firstly, following Geddes, there is a distinction between territorial (physical), functional and conceptual (identity) borders.¹³ Secondly, in distinction to the majority of the studies reviewed above that tend to emphasize either the decreased salience of borders or the erections of new dividing lines, I analyse three major possible outcomes on the borders of the member states as a result of the process of European integration. Each of them can be manifested on territorial, functional or identity borders.

Firstly, increased cooperation can lead to the decreased salience of previously existing borders between the Union member states, thus creating a new EU common space. In the empirical chapters, this is termed 'de-bordering'/'decreased salience of borders'. For territorial borders, this tendency is manifested through allowing access to the territory of the member states without formalities. The Commission discourse articulates the de-bordering tendencies predominantly through the formulation of measures removing the existing obstacles to movement. These facilitate movement on the EU territory by dismantling previously existing physical borders between the member states. In a somewhat similar way, de-bordering for functional borders involves reducing the administrative requirements and the necessary bureaucratic procedures for gaining access to different sites, such as the labour markets of other member states. For identity borders, de-bordering is characterized by the construction of a common identity of the EU population. The Commission discourse articulates this in two main ways—firstly, through down-playing the differences between the EU member states and secondly, through continuous references to inclusive words, such as the pronouns 'our', 'ours' and 'we', which point to the existence of common historical traditions, civilization, experiences, thinking, perceptions, current challenges and so on, and the labelling of contemporary undertakings as 'common action' or 'joint endeavour'.

Secondly, as Diez points out, the process of de-bordering in the EU is taking place when the focus is on the inside. However, this simultaneously erects new borders on the outside (2006: 236), the EU's external border. It is this creation of a new, outside EU border, which I mean when referring to border-construction and border reconstruction. To the extent that the borders of the member states do not disappear completely, one can talk about border reconstruction. However, due to the fact that the new borders that are established at the outer edges of the Union are also the limits of an international actor in its own right, it becomes meaningful to

talk about border-construction. In the empirical parts of the study, I refer to this process as the construction of the external EU borders, marking the differentiation between the Union and other political entities on the international arena.

For territorial and functional borders, this is manifested through the emergence of new regimes regulating the entry into the territory, labour market or welfare state of the Union and its member states for third country nationals. The main way in which the Commission discourse constructs the external EU borders is through articulating some kind of common threat for the Union and building on this, arguing for various undertakings seen as capable for addressing it. The articulation of threat is also core to the construction and reconstruction of identity borders. Following post-structuralists, identity borders emerge as a result of articulations of ‘Self’ and ‘Other’, following the twofold function of identity—internally, to define the community, and externally, to differentiate between the community and the outside. Thus, these articulations contribute to the drawing of boundaries which describe who may be included and who may be excluded. O’Hagan outlines this process well. It involves two interrelated occurrences. One is the process of defining collective identity, achieved through a perception of shared norms, beliefs, institutions, values and goals. The other, which is crucial for post-structuralists, is differentiation. It is the concept of the ‘Other’ that provides the axis of acceptable and unacceptable political activities. Thus, political identity often emerges with greater clarity when the polity confronts the individual whose inclusion is ambiguous. This helps generating abstract principles upon which the community or polity is based (O’Hagan 2002: 40; 47–50). Hence, Campbell argues: ‘...the constitution of identity is achieved through the inscription of boundaries serving to demarcate an “inside” from an “outside”, a “self” from an “other”, a “domestic” from a “foreign”’ (1998: 9). Thus, the Commission discourse constructs the external EU identity borders through articulations creating understandings of what does and what does not belong to the EU.

Thirdly, the Commission discourse can reconstruct internal borders inside the EU (for a discussion on EU internal borders, see Müller-Graff 1998). Here, the term ‘internal EU border’ denotes a situation in which, contrary to the traditional integration aims striving to establish a common space between the member states, certain aspects of the Union policies lead to the creation of divisions either between the EU member states or between various other entities inside the Union. The former are a result of

incomplete integrative measures, which recreate the distinction between the member states and point to the continued existence and significance of their national borders. Furthermore, because the integration efforts also affect groups of people inside the EU, new internal functional and identity borders also emerge. Therefore, integration can result in incomplete de-bordering in the EU when differences between the member states may persist and when new divisions are created within the EU population. Thus, this study understands internal borders in the EU as divisions (territorial, functional or identity) that have emerged in the Union in the course of the European integration process. Importantly, these new borders are quite likely to take different forms in comparison to the situation prior to the initiation of integration efforts, emanating the essence of the transformed EU borders. The reconstruction of internal territorial and functional borders arises if, as a result of cooperation in the Union, different categories of people emerge in terms of their rights and regime to access the territory or labour markets and welfare states of the EU member states. Namely, despite the Commission rhetoric about the creation of an area without internal barriers, there are still categories of people that face obstacles for their free movement in the Union. The reconstruction of identity internal borders is a consequence of the articulation of certain categories of people as an 'Internal Other' in the Commission discourse, thus creating a division within the EU population.

The concept of an 'Internal Other' is another term grounded in post-structuralism. It points to the impossibility of complete fixity of meaning due to the dense texture of any discourse. Derrida demonstrated this argument through deconstruction. Thus, post-structuralists maintain that within each discourse, there are possibilities to defer and disrupt indefinitely its claim to sufficiency and closure. Crucially, for post-structuralists, these disruptions are internal to the discourse (cited in Connolly 1994: 50). Consequently, within every discourse there are internal inconsistencies and contradictions, the emergence of 'Internal Other' being one of them. An 'Internal Other' occurs when the Commission discourse articulates a part of the EU population as possessing qualities concurrent with the qualities attributed to the Union's 'Other'. Such articulations contribute to the reconstruction of the internal divisions in the Union because they obstruct the establishment of a perception of sameness within the EU population.

Thus, overall, the empirical chapters of the study analyse the ways in which Commission articulations configure EU and European borders

along two main lines. Firstly, they ask: do they contribute to the emerging of a common space in the area in question, thus leading to a decreased salience of borders or do they instead contribute to the construction of an internal or external border? Secondly, they look into whether this configuration refers to a territorial, functional or identity border through the construction of unification/distinction. Given the wide variety of policy areas in which the Commission is involved, the over 60 years of existence of the European Community (EC)/EU and the different ways to interpret Commission documents, the next section presents an account of the study's time-frame, the reasons for choosing the four policy areas on which the research is focused and the ways in which the Commission documents were collected and interrogated. These form the methodology of the study.

METHODOLOGY

In outlining the methodology of the study, this section addresses the selection, collection and analysis of the data that forms the empirical analysis into the transformation of EU borders as well as reasons behind the choice of the policy areas and the period under investigation. This explicates the issues around the study's research design.

Why This Period? Why These Policy Areas?

In developing the parameters of the investigation into the transformation of borders in the context of the European integration process, the decisions about the time-frame and the case selection were informed, among other things, by the understanding of borders elaborated on above. This has meant that the focus was on choosing a period of significant transformation of borders in multiple and diverse policy areas, in which the Commission played an active role. This will enable a comprehensive coverage of key borders transformations and of major Commission contributions to this process.

Time-wise, the study is focused on the bordering practices since the adoption of the Single European Act (SEA) in 1987. This period was chosen as a starting point for three main reasons, which provide a fertile ground for the empirical analysis of re/configuration of all kinds of EU borders and the Commission contribution to this process. Firstly, according to Article 13, a core goal of the SEA was the establishment of an

internal market between the member states, which was defined as: ‘an area without internal frontiers in which the free movement of goods, persons, services and capital is ensured’. Thus, post-SEA, the push towards de-bordering and the establishment of a common space in the Union received a boost.¹⁴ One of the crucial ways in which this happened was through functional linkages between SEA (economic areas) and non-economic fields (like social policy or the environment). In essence, this facilitated borders transformation in multiple areas.

Secondly, the European Commission played a crucial role in the spear-heading and implementation of the initiative (cf. George 1991: 163). This not only shows its ability to play a leading role in EU policy processes (at least sometimes) but also leaves an impression of this institution as a champion of de-bordering. As will be argued here, this is never the full story. Thus, by focusing on EU borders transformation post-SEA, various Commission contributions to the transforming Union bordering practices, as well as the tools utilized for this will be highlighted. Thirdly, the SEA’s provisions for qualified majority voting (QMV) strengthened the Commission stance in EU decision-making, at least theoretically increasing its ability for independent action, in turn enhancing the Commission influence on border-transforming processes (Tranholm-Mikkelsen 1991: 12 for more details).

The search for a comprehensive and well-balanced coverage has also informed the case-selection decisions. Crucially, for this part of the research design, an important consideration was the constructivist understanding that social phenomena, like borders, are created and maintained through a complex web of practices that bring the phenomena into existence and perpetuate their presence. In the case of borders, these are inclusion–exclusion arrangements. Importantly, while some of these practices are readily associated with borders, others are not. Nevertheless, the latter play a significant role in the internalization and subsequent normalization of the inclusion–exclusion arrangements. In fact, the practices that are not readily associated with borders are paramount as they are more difficult to transform due to their relative obscurity. In turn, this has repercussions for the wider processes of border transformation. Therefore, in the selection of the case studies, a leading consideration has been to examine both types of inclusion–exclusion practices, those that are more readily associated with borders are those that are not. Eventually, this led to a focus on four policy areas: border controls, free movement of people, social policy and the ENP. They represent a well-balanced case selection that enables attaining insights into all areas key for the study.

Firstly, they span all the major types of borders discussed above. At the same time, secondly, they enable analysis of the bordering practices in fields usually associated with borders (border controls and ENP) and in those constitutive to the normalization of these practices but which are not so widely scrutinized, like social policy. Thirdly, as the empirical chapters will show in more detail, the policy areas studied have diverse origins and governing structures. This allows attaining an understanding of the Commission's role in EU borders transformation under various circumstances. Importantly, this diversity is the reason for examining border controls and free movement of people in separate chapters; the particular issues they are dealing with in the EU have evolved in radically different ways. Taken together the four policy areas enable the study to contribute to current debates by providing an in-depth and comprehensive picture of the changing EU bordering practices and the Commission contribution to the process.

Inevitably, however, due to various limitations, not all EU policies conducive to border transformations have been examined. One such field is the impact on inclusion–exclusion practices of the introduction of the common currency, the euro. Another one is the EU cohesion policy and transnational cooperation. The border-transforming dynamics of the former have been highlighted by the developments triggered by the sovereign debt crisis in the eurozone. In the case of the latter, the Interreg programmes are powerful tools contributing to the shift from the traditional to post-modern order accompanied by changes in the relevant bordering practices. Furthermore, the Commission has been one of the key players in this policy area, contributing to the redesign in the nature and functions of borders. Due to resource limitations (i.e. time), this study has not been able to examine in detail the border transformations in all relevant policy areas of the EU. This limitation of the study opens potential avenues for further research that can highlight other significant dynamics. Despite that, the study's research design still equips it well to provide insights into the issues it is concerned with, highlighting important changes in current inclusion–exclusion practices and showing various aspects of the Commission contribution to these processes. Furthermore, crucially, in light of the point discussed above about the constructivist understanding of borders, the case studies included here cover both policy areas that are clearly related to borders and fields less obviously implicated in the transformation of borders.

Data Collection

Addressing this study's research questions by following constructivist thinking requires reconstruction of the Commission's bordering articulations and a critical engagement with them. The former provides information on the Commission's thinking, undertakings and goals in each policy area, highlighting crucial developments in the relevant bordering practices under conditions of integration. This, however, will not present a full picture in itself as certain important issues may not be discussed explicitly by the Commission. This necessitates a critical engagement with the relevant discourses, so that an understanding of all the aspects of the bordering practices is advanced. This will provide a comprehensive account of EU borders transformations. So, how were the Commission documents studied, selected and analysed? The answer to the first point shows how the Commission discourse in each policy area was reconstructed. The answer to the second one explicates how the critical engagement was achieved.

So, in each policy area, the meaning constructed for the inclusion–exclusion practices was recreated by looking at the European Commission texts and their common themes, objects and categories (suggested in Carabine 2001: 281) and analysing the activities they enable and outlaw. This allows advancing an interpretation of the ways in which the discourse configures borders. As the discussion in the empirical chapters shows, Commission discourses tend to emphasize de-bordering.

Crucial questions for discourse analysis revolve around the documents on which interpretations are based, in this case which Commission texts exactly were read? Why these ones and not others? Answering these questions goes back to the research aims, which for this study are to engage critically with the Commission discourses on EU borders and to investigate the Commission's contribution to their transformation. This necessitates gathering information about the Commission discourses on borders; its policies and priorities towards EU borders; and the new rules the proposals establish.

Data on the Commission's priorities in the relevant policy areas is collected by examining the following main kinds of documents: Green and White Papers,¹⁵ and European Council and Presidency Conclusions (such as these at Tampere, Lisbon and Thessaloniki). These help define the scope of the objectives and priorities, giving ideas about the areas likely to undergo high Commission activity, thus focusing the search. Importantly, these documents form the initial phases of the EU decision-making pro-

cess, when overall objectives or new initiatives are formulated and aired. Given the aim of engaging critically with the role of the Commission in the construction and reconstruction of the EU's borders, the contents of Council and Presidency Conclusions is important even though they are not Commission documents. If Green and White Papers expose the thinking of the Commission in the initial stages of decision-making, the Conclusions formalize the accepted goals by making them official priorities for the Union. Therefore, by engaging with all these documents, I can analyse any concurrences and differences between the thinking of the Commission and the future policy directions agreed upon at EU level.

Nevertheless, the study has not investigated in depth the specific origins of border-related policy proposals (i.e. are they promoted by the Commission, the EP or the Council). This is due partly to the fact that such investigation requires a genealogical analysis, which goes well beyond the primary aim of the research. Furthermore, as argued above, in tune with post-structuralist understandings, in practice things are always inter-textual, making pinpointing one source of origin for a particular idea or policy proposal exceptionally difficult. Thus, in the Commission discourse, the various visions will be expressed. Despite that, the institutional structure of the EU allows making assumptions about the general trends of the positions on particular proposals that the main EU actors are likely to adopt as a result of their self-interests. These help to moderate to a large extent this limitation and allow presenting a plausible account of the origins of specific policy proposals that are examined in the research.

A preliminary reading points out the major areas where Commission documents should be collected in order to reconstruct its discourse. The bulk of the collected documents are Commission Communications (available through [EUR-Lex n.d.-a](#), COM¹⁶ and SEC¹⁷ documents). The selection is furthered through including Commission officials' speeches on issues relevant to the studied policy areas,¹⁸ as well as other releases for the general public.¹⁹ These texts include all the major policy proposals and Commission positions, thus ensuring that nothing key is missed out while reconstructing the discourse.

This shows that the overall aim has been to refrain as much as possible from using non-Commission-issued documents. Nevertheless, for the reasons explained above, European Council and Presidency Conclusions that have issued landmark decisions and objectives in the policy areas under consideration are used in the following chapters. This more narrow definition of Commission discourse (rather than one that looks into

Commission discourse expressed in documents issued by other EU institutions, for example) provides a clear boundary for the discourse analysed. This enables higher consistency and better comparability between the documents considered. Simultaneously, due to the interpenetration of texts, some of the non-Commission influences in its documents can still be traced. To get an idea about the Commission's ability to secure adoption of the proposals issued in a policy area, their status in the EU decision-making machinery²⁰ is checked. This allows getting a complete picture on the relevant issues in terms of both content and adoption, thus ensuring accurate analysis. After this process of reconstruction, one can interpret the actions these proposals enable and those that become impossible, as well as how these discourses configure borders.

Ultimately, the information gathered about the European Commission discourse in the policy areas allows analysing its contribution to the transformation of EU borders. Furthermore, the documents collected in the different policy areas are comparable to each other because all types of documents collected and examined are available for all the policy areas in question, i.e. communications, speeches and landmark Council decisions that have defined the objectives. Therefore, the analysis builds on the same types of Commission documents.

The main Commission-produced documents excluded from this study (Registers, which offer access to the internal documents; Commission Meetings; Work Programmes; C documents; Committee Deliberations; Expert Groups; Application of Community Law; Co-decision; General Publications; and Audiovisual Service²¹) are either related to the internal working of the Commission or are aimed at the general public. The former have been excluded because the information they are anticipated to provide will give more inside knowledge of the day-to-day run of this institution, which is not pertinent to the aim of the study. The latter are an inherent part of the Commission contribution to the transformation of borders because they are aimed at the wider public inside and outside the EU and as such can facilitate the process of discourse-normalization. However, the goal of critically examining the way Commission articulations configure EU borders can be performed satisfactorily without detailed analysis of these documents for two main reasons. Firstly, the bordering configurations in these documents will follow the configurations articulated in the Commission documents that are examined because the information disseminated to the general public is intended to give the ordinary citizen easily understandable information about the EU. Secondly, aspects of

how the Commission relates to the general public are already included in analysing the bordering configurations in Commission officials' speeches. Therefore, detailed analysis of Commission documents aimed at the general public goes beyond the scope of this research.

Another issue related to the data collection is whether further tools, such as interviews with Commission officials, are needed for the reconstruction of its discourse in each policy area. Such an approach was considered as it could also provide insight into the internal workings of the Commission. Ultimately, however, it was judged that the study could attain its goals satisfactorily without using interviews. For one, this research's primary goal was not focused on the micro level, the intra-Commission developments, as interesting as they may be. More importantly, however, it was also thought that given the relatively long time-span of the research (over quarter of a century), it was going to be difficult to balance the interviews. The key danger was that it would be difficult to represent the views of the officials involved in policymaking at the time of and just after the signing of the SEA. At the same time, it was likely that more current developments would be over-represented, thus potentially tilting the balance of the analysis. Consequently, the data collection was focused on Commission documents available online.

Data Analysis

The materials collected during the empirical research are analysed in two main ways. Firstly, a critical reading of the discourses of the Commission is advanced using the strategy of double reading, which 'allows to bring to the surface features of discourse which normally are allowed to remain submerged' (Brown 1994: 222). Building on this, secondly, I analyse the Commission contribution to the EU borders transformation. After the second reading is performed, the focus is on whether there is still only a trend towards de-bordering or a more complex transformation of borders is articulated, also leading to the construction and reconstruction of borders. Furthermore, this enables evaluation of the reasons for these transformations. Given the complex EU decision-making structure and intertextuality, it is interesting to analyse whether the borders configured in the Commission discourse are actually actively promoted by the Commission itself. To do this, particular attention is paid to the articulations on the EU decision-making system and the question about the Commission's support of it is considered. Also, the Commission's ability

to secure adoption of its proposals is traced. Taken together, these analyses allow providing a detailed account of the Commission's contribution to the process of EU borders transformation.

One of the aims of this study is to show how despite the European Commission integration rhetoric emphasizing de-bordering, a more careful consideration of the relevant texts and their interrelation with other texts involved brings to the fore issues that effectively transform borders. Namely, Commission articulations construct practices of inclusion and exclusion that are different from traditional ones. These are not always acknowledged by the Commission discourses but the method of double reading allows bringing them to the fore by critically engaging with the relevant discourses, providing a more comprehensive picture of the processes taking place.

In this method, the first reading presents the discourse under scrutiny in the most faithful way and based on this, it gives it the most favourable interpretation possible (Howarth 2000: 45). Taking the position of the author and representing what the intention of the text is achieves this. In that respect, the first reading mimics the discourse in question. It does not engage, interrogate or analyse the discourse but simply represents the meaning it creates as truthfully as possible. The second reading, however, places the discourse within a wider context and shows how the meaning produced by the specific discourse is interrelated (is affected by and affects) other discourses. Therefore, the meaning produced by a particular discourse is contingent upon other discourses (Ashley 1988: 231–3; see also Nealon 1993: esp. chs. 1–3 and Morton 2005), which need to be taken into account as well. Thus, the second reading does not look at the authoritative voice in the text but rather tries to identify the breaks in the argument, the spots in which the assumptions made within the text are problematic.

Thus, the second reading's critical account is developed on the basis of a deconstructionist engagement with the relevant Commission articulations. It enables a substantial and comprehensive analysis of the meanings a discourse produces and reproduces. This undertaking follows and employs key constructivist ideas, like the understanding of the social construction of meaning or the goal of probing the basic assumptions on which the discourses in question rest. In turn, this highlights the key sites in which the battle over the production of meaning takes place, with the potential to determine the specifics of the order that will emerge out of this struggle. This is why the double-reading technique is classified as

a critical-theoretical approach. At the same time, it does not explicitly engage with hallmark questions for the critical constructivist studies, like the power–knowledge nexus, which, as acknowledged below, has led some to attack its critical credentials.

This analytical technique has been applied in different fields of social research, notably literary studies (cf. Nealon 1993) or political philosophy (Morton 2005). In the 1980s, Ashley (1988) used it in the field of international relations to problematize contemporary understandings of two notions central to international politics, sovereignty and anarchy. Nevertheless, the double-reading technique has not been a widely used one, given that it has not been employed in a number of social science areas, including European studies. Thus, one of the contributions of this work is to address this absence by advancing the case for the use of the double-reading technique in the effort to understand better the dynamics of border transformations as a result of the European integration process.

To that end, in all the policy areas, the initial aim was to reconstruct at face value how the relevant Commission documents configure EU borders. In the empirical chapters, this is done simultaneously with the reconstruction of the Commission discourse in each policy area, as explained above. In the second reading, however, the aim is to demonstrate that when the wider framework is taken into account, there are border-producing articulations in these discourses, which usually are not given the necessary attention. There are two main ways in which this can be revealed. Firstly, such a situation can be the result of contradictions and inconsistencies between aspects of different policies of a particular institution. Therefore, it can be expected that these contradictions can be identified within the Commission articulations in the different policy areas. For example, some of the arguments used by the Commission in its discourse on enlargement can be read as constructing the EU's border in the context of the ENP (see Kostadinova 2009 for more details). Secondly, an important indicator of the inconsistencies of the discourses is its silences and absences. These are issues that are not present in the discourse, although one may reasonably expect them to be covered by it (Carabine 2001: 285). These absences, however, are of paramount importance because their mere existence points to a *de facto* inconsistency of the discourse. For example, in a discourse framed as free movement of workers, one would not be content to see measures aimed at opening up borders to refer only to Union citizens. In practice, the silence on the free movement of third country national workers in such a discourse does create a border between these

two categories of people. This points to a rupture in the discourse itself because it obstructs the achievement of its declared aims.

To ensure the smooth performing of the technique and the compatibility of the findings, it is useful to develop a list of questions for reading the documents. For the first reading, the analysis is conducted through posing the following questions:

1. What aims does the Commission have in the given policy area?
2. How are these aims justified? What is the rationale behind them?
3. How are these aims going to be achieved?
4. How do these actions configure EU internal/external borders?

For the second reading, I am looking for the following:

1. Are there any inconsistencies and contradictions in the Commission discourse?
2. Are there any silences within the current discourse, which make the achievement of the stated aims problematic?
3. Do these breaks in the discourse contribute to the configuration of the EU internal/external borders?

Thus, the double-reading technique allows addressing the core question for this research, the way in which Commission discourse contributes to the transformation of EU borders. This analysis also enables elaborating on the reasons for these transformations, for example, signalling the main constraints for decreasing the importance of internal EU borders. Ultimately, this dissection not only allows pointing out the Commission's contribution to the transformation of EU borders, but also shows its distinct features in each of the policy areas examined.

There are several key criticisms *vis-à-vis* the double-reading technique.²² Firstly, as any discourse theoretical approach the selection of its documents is crucial. The discussion above explained the reasons why the documents selection here is robust and enables addressing the aims of the study. Secondly, a possible criticism that the study is not critical enough can be raised.²³ Such a view comes from the study's links to post-structuralist ideas and concepts, like the double-reading technique. As an approach, post-structuralism has aimed at questioning grand narratives, thus exposing the underlying power relationships and the dominant forms of knowledge and social practice. Arguably, this study does not fully exploit this

potential as it does not delve into an in-depth critique of the underlying power relationships and the dominant forms of knowledge when it comes to current bordering practices. This criticism misses the key aim of the study, which is to demonstrate how bordering practices in the EU are transforming. As explained above, the post-structuralist-inspired tools employed in the study allow the successful attainment of this goal. A more critical engagement with the underlying power relationships, although an interesting and worthwhile endeavour, is beyond the scope of the current research.

Lastly, the methodology of the study can be attacked from a more positivist perspective on the grounds that it does not advance a clear alternative to the shortcomings identified in the Commission's bordering articulations, thus failing to have a clear policy relevance. This is in line with the criticisms usually levelled against post-structuralist studies (Stears et al. 2010: 152). Such a criticism is unfair, however, in view of the post-structuralist-inspired research aspiration. Given their relativism, they are naturally weary of putting forward any solutions in fear of them becoming the new grand narrative and leading to new forms of domination. Despite their reluctance to provide solutions to the problems identified, post-structuralist research is arguably still needed and useful. Its critical nature is indispensable in providing a better understanding of the processes that are usually taken for granted. In that way, this approach contributes to the de-normalization of the taken-for-granted practices, highlighting their historical nature and the myriad of conventions that make these practices possible. In demonstrating how EU borders are being transformed and in highlighting the numerous processes that make this transformation possible, this study fits into the constructivist tradition that has inspired it. Although not undertaken here, this lays the groundwork that can potentially be used for the advancement of alternative policies in future undertakings of scholars or practitioners.

SUMMARY

This chapter started from the observation that despite expectations to the diminished importance of borders not too long ago, what has taken place has in fact been a process of borders transformation. Furthermore, a novel institution, the European Commission was identified as an actor with a role in this process that is worth examining in greater detail. This posed the key research question that the study aims to address: how does the

European Commission contribute to the transformation of borders? The subsequent sections of the chapter laid the groundwork for addressing this question by presenting and engaging with the key academic debates relevant to the study, defining the key terms, like borders, classifying the types of borders that are being transformed by the process of European integration, explaining why and how the European Commission can sway the EU policy processes and outlining the methodology of the study.

Utilizing these, the subsequent chapters undertake the detailed analysis of the specific Commission contribution to the transformation of EU borders in a number of specific migration-related policy areas. As Taylor has argued, in the modern era, territoriality linked the sovereign control over a particular piece of land with national homeland. This fusion created the nation-state, a power container based on the accumulation of responsibilities on matters of security, wealth-creation, culture and social welfare. At the height of the modern era, the state was the ultimate authority on all of them, creating salient borders between different territories (1994). The leakages in state-containing powers in recent decades (Taylor 1994) are what have prompted current border transformations.

The following chapters analyse the Commission contribution to such leakages in a number of migration-related issues. Given the study's concern, the discussion is organized around the three types of borders outlined above. At times, these cross-cut policy areas as they are defined within EU studies. Chapter 2 looks at the new regime emerging in the Union in the area of border controls. It outlines the transformation of EU territorial borders and highlights crucial constraints faced by the Commission in a policy area where until recently cooperation has been intergovernmental. Chapter 3 deals with the transformation of functional EU borders through examining inclusion–exclusion practices concerning the free movement of people for work purposes. It uses the Blue Card Directive as an example of the Commission entrepreneurship that aims at creating a genuinely common space for workers within the EU. Chapter 4 delves into examining how the Commission tries to transform EU identity border through its articulations in the field of social policy. Chapter 5 examines the repercussions of Commission ENP articulations on the borders in Europe. It presents in detail the complex inclusion–exclusion transformations that are taking place on the European continent as a result of the EU's external policies. This highlights the evolving foreign policy practices emerging in the process of borders transformation. Chapter 6 summarizes the main findings, highlighting the key features of the nature

and function of the transformed EU borders. It also reiterates the key ways in which the Commission has contributed to this process of changing the Union's inclusion–exclusion practices.

NOTES

1. In the literature, this different configuration of borders is also often referred to as hard and soft borders. For definition and different usages of the terms hard and soft borders, see Zielonka (2001: 509, 2002, 2006), Ruggie (1993); Grabbe (2000: 527); Eder (2006: 256). Eder's distinction between hard and soft borders is on the grounds of their legal formalization, not on the relative ease for their crossing.
2. Geddes' classification and definitions of borders is from 2005: 789–90.
3. Although intergovernmentalists accept this predisposition of supranational institutions to promote integration, they deny (with the exception of the SEA) these institutions' ability to successfully exercise actual influence towards furthering integration.
4. For a study that briefly reviews the traditional types of spillover and introduces a novel fourth type, see Carsten (2000).
5. A presentation of intergovernmentalists' and neo-functionalists' views of what integration is goes beyond the scope of this research. The most recent intergovernmentalist theory in integration studies has been developed in a series of contributions by Andrew Moravcsik (cf. 1991, 1993, 1999b). Neo-functionalist thinking about integration is exemplified by the contributions in Ernst Haas (1996); Leon Lindberg (1963); and Schmitter (1969).
6. A good overview of the main criticisms to intergovernmentalism is offered in Pollack (2001: 226–7). This study's position on intergovernmentalism is especially informed by the criticisms of the constructivist camp developed by Risse-Kappen (1996); Lewis (1998); Sandholtz (1993, 1996); and Tonra and Christiansen (2004).
7. For constructivists, social interaction takes place at all levels, i.e. between ordinary citizens or between national and EU elites. Given that my data is formed primarily of Commission documents, my research is focused at the elitist level of border configuration. A collection of studies that examine the 'border work' of citizens is Rumford (2008).
8. The following studies offer good summaries of the different ways in which discourse is understood in social sciences: Wetherell et al. (2001); Laclau (1995); Wodak and Meyer (2001).
9. It should be noted that although in this section I have employed Hansen's elaboration of the process of production of meaning, the linking and differentiation that she refers to were first developed by Laclau and Mouffe in their notion of equivalence.

10. For a good introduction to the relevant arguments, cf. Howarth (1995, 2000) or Howarth and Stavrakakis (2000).
11. See p.15 above.
12. Empirical research has also demonstrated the general bias at the top management level of the Commission towards favouring deeper integration (cf. Elinas and Suleiman 2011). Although Wonka (2015) argues that the Commission should be seen as a collective rather than a unitary actor, this does not conclusively refute the expectation that on key border-related issues, the Commission will tend to contribute to border transformation.
13. See p. 7 above for a definition of each of these types of borders (territorial, functional and identity).
14. For more details and analysis of the SEA and the political thinking that made it possible, cf. George (1991); Tranholm-Mikkelsen (1991); Gamble (1988: ch. 2).
15. The former aim at gathering different opinions on a specific policy issue, while the latter contain proposals for Community action in a specific area and are used as vehicles for its development.
16. The COM documents are the proposed legislation and other Commission Communications to the Council and/or other institutions and their preparatory papers.
17. The SEC documents are internal documents associated with the decision-making process and the general operation of Commission departments.
18. A database where Commission speeches are stored for all EU policy areas is Rapid Press Release (n.d.).
19. The database for these is European Union (n.d.).
20. The status of policy proposals can be tracked at EUR-Lex (n.d.-b). This is the portal that monitors the decision-making process between EU institutions.
21. European Commission (n.d.-a). On the same web site, links provide access to more details on each of these types of documents.
22. The broader meta-theoretical debates between positivist and post-positivist methodologies and the criticisms posed to interpretivist methodologies are not discussed here, as they are seen as going beyond the scope of the study. For a good overview, see Blaike (2007).
23. As was done by Chris Rumford during a PhD viva, 10 January 2010, University of Birmingham, UK.

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Border Controls—Transforming Territorial Borders

In the modern era, border controls were crucial buffers for regulating access to a territory, enabling a state to delineate between flows, letting in desired ones and stopping the unwanted ones. Despite the changing dynamics in recent decades, not least because of the transformations triggered by European integration, this understanding of border controls persists. Consequently, heated debates have ensued about the kind of border controls needed in the advent of the post-modern era. In the EU, against a backdrop of at times substantial movement of people across borders, many of these debates have focused on the question of migration. These disputes have become especially heated recently with the realization that 2015 experienced the largest and most complex surge in migration since World War II (Metcalf-Hough 2015). Consequently, border-controls-related issues have dominated the headlines and have attracted the attention of politicians, who, in the effort of resolving the arising problems, have undertaken multiple actions also implicating border controls. Given the efforts at establishing a common area for movement within the EU, the European Commission has inevitably played a part in these processes, participating in the relevant debates.

This chapter engages with these matters, aiming to develop an account of the Commission's contribution to the transformation of the bordering practices at the EU's territorial borders. It examines the different kinds of borders constructed by the Commission articulations and outlines their

key characteristics. As the discussion below shows, in distinction to the other policy areas examined, Commission border controls enunciations discuss explicitly the EU's external borders. Therefore, the chapter starts by providing a general background of the development of EU border controls. Section two then conducts the first reading of the Commission discourse, looking respectively at the articulations that contribute to the emergence of a common EU space and those enunciating the Union's external borders. Section three engages critically with this discourse and elucidates less obvious border configurations in the Commission discourse, which contribute to the reconstruction of internal divisions within the EU on border controls.

THE AREA OF FREEDOM, SECURITY AND JUSTICE— EVOLUTION OF BORDER CONTROLS UNDER EUROPEAN INTEGRATION

Due to the complex nature of the Union policy processes and the divergent integration paths in various policy areas discussed in the previous chapter, this section provides a brief background on the evolution of EU border controls. It outlines the key turning points in the integration of border controls, clarifying some main characteristics of the current regime and its governance structure, especially the Commission powers and prerogatives; pinpoints the major issues covered by border controls; and summarizes the most contentious matters that have sparked academic debates.

Starting several decades after the launch of the integration process, EU cooperation on border controls has been affected most considerably by the amended provisions of the Treaty of Maastricht, the Treaty of Amsterdam and the ToL. Therefore, each of them is reviewed briefly, focusing specifically on the powers of the Commission (this summary relies considerably on Lavenex 2015: 369–73).

Cooperation in justice and home affairs (JHA), which encompasses border controls, did not start until the 1970s. Even then, when it started, initially with the Terrorism, Radicalism, Extremism, Violence, Information (TREVI) and Pompidou groups and later on under the Schengen Agreement, it was outside the formal integration efforts. At the time, it consisted of intensive informal cooperation between the security and law enforcement agencies of the participating states. Consequently, initially this was intergovernmental cooperation from which the Commission was intentionally kept out. In 1990, two important agreements were reached: the Schengen Implementing Convention and the Dublin Convention on

Asylum. The first stipulated the so-called compensatory measures, like the common visa regime or the common computerized system for exchange of personal data, deemed necessary for the attainment of the removal of frontier controls. The second established the principles guiding the responsibilities of the participating states for the consideration of asylum applications. Although subsequently amended, these agreements had profound impact, instituting core principles in the area of border controls still enacted today.

Despite the efforts to insulate the Commission from the cooperation in JHA matters, the SEA goal of establishing an internal market became a motor for functional spillover, which put increasing pressure towards somehow incorporating JHA into European integration formally. The Commission itself also promoted this view. According to it, the goal of establishing the single market requires all checks and formalities at internal Community borders to be abolished because: ‘the continued existence of just one of them would undermine the political objective laid down’ (European Commission Communication 1992: 8) in the SEA. Thus, for the Commission: ‘One of the essential aspects of any internal market is *the right of any person lawfully in that market to move freely to any point therein in order to obtain goods and receive services there*. In other words, an internal market ... cannot function properly if the movement of persons within it is hampered. It will be unable to offer all the economic benefits that can be expected of the integration of national markets ... if some people are prevented from, or have difficulty in, moving in that market... But the economic disadvantages are just as tangible when the obstacles to movement within the internal market stem from legal disparities which lead to the introduction of procedures and controls which in turn prevent or impede the movement of persons’ (European Commission Communication 1995: 4, emphasis in the original).

So the Commission promoted an interpretation of the single market as a Community-wide market operating under conditions equivalent to those of a national market (European Commission Communication 1992: 8). For it, the full benefits from the single market can only be achieved if everyone on the Union territory can move freely within the whole of it. The fulfilment of this requirement is only possible, however, if certain measures are undertaken in the area of border controls. Importantly, for the Commission the way to guarantee this is very specific. Allowing the single market to function along the provisions of national markets is: ‘an objective that goes beyond the mere easing of frontier controls’; it is a goal that necessitates internal frontier controls to be abolished (European Commission Communication 1988: 5).

These functional spillover pressures for formalizing this area of cooperation were reinforced by the developments immediately after the fall of the Berlin Wall, the time when the intergovernmental conference (IGC) negotiating the terms of the Maastricht Treaty was also taking place. The outcome was a compromise. The Treaty included JHA as areas of ‘common interest’, thus formally including this area into European integration. However, contrary to the earlier Dutch Council Presidency proposal, JHA constituted a separate, third pillar, which was intergovernmental. Thus, the existing frameworks of authority and accountability were preserved, severely curtailing the role of the supranational institutions. The European Court of Justice (ECJ) did not have authority over JHA matters, while the Commission did not have sole power to initiate legislation; it was shared between the Commission and the JHA Council. This compromise meant that JHA was very difficult to administer in practice. Furthermore, the established system lacked transparency and accountability as the key players were part of the executive branch of power.

These problems and the impending Eastern Enlargement precipitated substantial changes to the governance in this field in the Treaty of Amsterdam. The most important innovation for this study under the Treaty’s provisions was the transfer of a number of policy areas, such as visa and asylum, directly related to border controls from the third to the first pillar.¹ Thus, in effect, Schengen was incorporated into the European Community framework, transforming the decision-making process on the above issues.² This transformation, however, was to take full effect only after an initial five-year transition period.³ During this time, the decision-making was to stay essentially intergovernmental with the CoM acting unanimously and the Commission sharing the right to legislative initiative. Only after the five years was the more fully-fledged supranational decision-making to take effect with the Commission gaining the exclusive right to initiate legislation.⁴

The incorporation of Schengen into the EU *acquis* formalized into the integration process an important division within the member states. Due to their prior arrangements for participation into Schengen, Denmark, Ireland and the United Kingdom (UK) have opt-outs. Namely, Ireland and the UK are excluded from all aspects of free movement of persons and the Schengen *acquis* but can opt in to individual proposals on an ad hoc basis. For its part, Denmark has opted out of the free movement of persons provisions with no possibility for opt-ins. However, it is member of Schengen and participates in the common visa policy. It can, however, opt out from new policy proposals (Hix and Høyland 2011: 278). This as well, as the participation in Schengen of the European Economic Area countries and

Switzerland creates a patchwork when it comes to the applicable border controls regime. The Eastern Enlargement and more specifically the obligation of the new member states to join Schengen after they are deemed to have met the required standards only adds to this complexity, as to date not all new members participate fully in Schengen. Another notable development in this period was the relabelling of JHA cooperation into the goal of establishing an AFSJ. This stemmed from the effort to increase the EU's relevance for its citizens that was first articulated under the Treaty of Amsterdam (Lavenex 2015: 371). The goal of establishing an AFSJ was subsequently confirmed in the Tampere European Council Conclusions in 1999 (Malmström 2013b: 1).

The latest Treaty amendment to date, the ToL, confirmed the significance of the AFSJ by placing its achievement second on the list of goals, above priorities like the single market or the single currency (Bache et al. 2015: 458). Some of the key changes with relevance to border controls brought by the ToL are the lifting of most existing limitations for judicial control by the Court of Justice and the extension of the ordinary legislative procedure to former 'third pillar issues'; the formalization of the integrated border management goal; and the confirmation of the right of the member states to determine the volumes of admission in the common immigration and asylum policies. Under the ToL, the Commission gains the right to legislative initiative for matters formerly part of the third pillar. However, its powers are potentially also diluted by the provision that a quarter of the member states can also propose legislation in the areas of judicial cooperation in criminal matters, police cooperation and administrative cooperation (Lavenex 2015: 373–4; for further analysis of the implications of the ToL for the AFSJ see also Carrera and Geyer 2007).

Overall, the verdict of analysts is that although there is appearance of a supranational governance framework in this area, strong intergovernmental features persist. Lavenex, for example, argues that AFSJ is transgovernmental. She defines transgovernmentalism as a mode of governance combining elements of the traditional Community method (which is supranational) with intergovernmental practices. It is characterized by relatively weak legal harmonization and a focus on coordination of the operational aspects of cooperation between the member states (2015: 368). Furthermore, AFSJ has also undergone a proliferation of the role of semi-autonomous agencies (Lavenex 2015: 368; Bache et al. 2015: ch. 24). They play an increasingly important role in the governance of the issues related to border controls (cf. Rittberger and Wonka 2015 for more information on this and on their interactions with the Commission).

All of these create a very complex environment for the Commission to attain acceptance for its policy proposals on border controls.⁵ Although over the years its formal powers have clearly increased, improving its role in the policy processes, there are still important restrictions it faces. Chief amongst them is the reluctance of the member states to fully relinquish national control over key border controls issues, like admittance of people to their territory. Furthermore, the proliferation of actors in the field, especially of the semi-autonomous agencies, potentially creates problems with coordination. These agencies are often established because the member states are reluctant to entrust the Commission itself with the implementation of their responsibilities, fearing increasing Commission power within the EU. This necessitates successful Commission interactions with many partners for achieving the long-term goals agreed at EU summits.

As a result, the Commission's struggle for a greater role of the supranational element in the governance system of the AFSJ continues. This is exemplified by its welcoming of the ending of the transitional period post-ToL when the full-blown Commission ability to utilize its amended powers entered into force (cf. European Commission Press Release 2014c: 1); by the continued articulations that point out the weaknesses of the intergovernmental system of policymaking (cf. Malmström 2014b: 1); or by its advocating of EU-level solutions (cf. Malmström 2011a: 2; European Commission Press Release 2011e: 2; European Commission MEMO 2013b: 1).

Besides outlining some key features of the current system for border controls and its governance structure, this discussion also alludes to the diversity of issues covered under the JHA/AFSJ rubric. This variety necessitates a clearer delineation of the border controls matters that will be examined in detail in the chapter. In light of the concern here with migration questions, the focus will be specifically on the Commission contribution to the transformation of the bordering practices in the fields of immigration, asylum, visa and border management. These will enable pinpointing the key characteristics of the nature of the new inclusion/exclusion regimes and the Commission contribution to these processes, demonstrating how EU borders are being transformed.

This analysis, however, as mentioned above, takes place against an intensive, ongoing debate on migration. It has highlighted several main areas of contention, namely the securitization of migration issues, concerns over the protection of fundamental human rights under the current AFSJ regime and the increasing use of electronic databases. The debates on these matters are briefly outlined below, as they contribute to the present

discussion in two main ways. Firstly, they provide guidance into some key characteristics of the EU border controls regime, thus indicating potential features of interest for the transforming EU borders. Secondly, by outlining many of the major political struggles implicated in the establishment of the EU's border controls regime, the review will provide a background against which the Commission discourse can be analysed.

Most generally, securitization refers to the articulation of a phenomenon as a security issue. For a long time, scholars like Huysmans have pointed out that the EU cooperation on migration issues has been premised on the understanding that migration poses dangers to the societies of the member states and to the integration project (2000). It is because of this assumption that the so-called flanking/compensatory measures have always accompanied efforts towards abolishing internal EU border controls. Such an understanding of migration is not surprising given the evolution of AFSJ cooperation and the fact that security and law enforcement bodies have been in the forefront of it ever since the beginning. However, the securitization of migration in the EU has been consistently criticized by leading scholars in the field, who have pointed out firstly that the articulation of migration as a security issue sits uncomfortably with other proclaimed EU goals and values like freedom (cf. Apap and Carrera 2004: 400 or Bigo 2006).

Secondly, criticism has demonstrated how EU policies on migration have contributed to the emergence of new categories of people based on their ability to cross EU borders. On the one hand are the EU citizens and some third-country nationals (TCNs), who cross the borders with ease. On the other are those who have restricted access to the EU (mainly TCNs who need a visa to enter the Union). Crucially, their access is restricted because of the emergence of the current EU border controls regime, which leaves them little choice but to attempt illegal entry. It is these people that have been in the limelight in 2015. As van Houtum and Boedeltje maintain, this situation not only is created by the EU and leads to waste of human life but also is unfair and unjust as it discriminated between people on the basis of their nationality and possession of necessary documentation (2009: 229). In light of the above, it is unsurprising that another key criticism has been the question about the safeguarding of fundamental rights under the AFSJ (cf. Jeandesboz 2008: 15–17 or Guild et al. 2015).

This matter is further exacerbated by the increasing use of large IT databases that exchange information on those crossing EU borders (Brouwer 2006 is one of the many sources providing an overview of these

databases in the EU). Crucially, scholars have shown that on the whole it is difficult to justify the need for these innovative border controls technologies (Guild and Carrera 2013). Furthermore, other studies have argued that Agency for the Management of Operational Cooperation at the External Borders (FRONTEX), one of the semi-autonomous EU agencies, which has received increased amounts of funding since its launch in 2005, is not cost-effective (Jeandesboz 2008: 13). These contributions indicate that the emerging EU border controls regime and its border management are characterized by the employment of cutting-edge technology⁶ aimed at enabling a speedy filtering of the people crossing the border. Thus, another important characteristic of the transformed EU borders is their selectivity. While they are soft and porous for some, they are also increasingly hard and difficult to cross for others. In light of the preceding discussion, one can expect that the Commission has contributed to the emergence of this system without being able to significantly change many of its parameters. Nevertheless, the exact ways in which this has been articulated remain to be explored. This is the task undertaken in the remainder of the chapter.

DECREASED IMPORTANCE OF INTRA-COMMUNITY BORDERS AND THE CONSTRUCTION OF THE EXTERNAL UNION BORDER THROUGH COMMISSION DISCOURSE ON BORDER CONTROLS

This section aims to explore the Commission contribution to the transformation of EU borders by reconstructing its articulations on border controls. This constitutes the first reading discussed in Chap. 1. As already mentioned, in this field the Commission documents talk explicitly about the external borders of the EU. Thus, this section examines both the de-bordering enunciations articulating a common space in the EU and those contributing to the emergence of a divider between the Union and the outside world, which are a part of the process of rebordering. The discussion is focused specifically on enunciations in the field of visa, asylum and border management.

De-bordering—Creating a Common EU Space

As seen above, Commission articulations link the attainment of the frontier-free single market goal with the abolition of border controls envisaged under the Schengen Agreement. Thus, the Commission has actively advocated expanding the integration areas. This decreases the visibility of

national borders, facilitating the emergence of a common EU space. In the case of border controls, the efforts have been focused on removing existing obstacles to movement, like the need to attain a visa or the necessity to pass through customs and police formalities at the borders of a member state. This facilitates movement on the EU territory by dismantling previously existing physical borders between the member states. For the Commission, this requires ‘the abolition of all controls, formalities, procedures, checks, examinations, inspections, etc. ... at internal frontiers, just as there are no border controls between regions in national markets’ (European Commission Communication 1992: 9).

In practice, the implementation of this goal has been pursued through articulating key principles that undermine traditional state borders, thus discontinuing or altering traditional bordering practices, like checks at the border. The above-mentioned principle of movement as within a state, solidarity and availability exemplify these articulations. The first pertains to the basis for free movement across EU borders; the second is the proclaimed foundation of the Common European Asylum System (CEAS); while the third characterizes the desired convention for the exchange of information within the EU (European Commission Communication 2005b). The Commission has operationalized each principle by multiple policy measures in these fields. Given our focus on migration, the analysis is centred on the first two, Schengen and the CEAS.

One of the contentious issues under Schengen was the question who can benefit from free movement inside it. The Commission position was for: ‘the complete abolition of controls on all individuals who cross internal borders, irrespective of their nationality’ (European Commission Communication 1992: 12). Crucially, this eradicates the distinction between Union nationals and TCNs who are already in Schengen. Once a TCN has crossed the external EU border, he/she can move as freely in this common space as EU nationals. This clearly undermines traditional state borders. National governments fully participating in Schengen lose their previously existing ultimate control over the entries to and exits from their territories. Furthermore, this was the position that prevailed eventually. Today, everyone already in Schengen enjoys free movement within its territory⁷ and member states can reinstate border controls only temporarily. The Commission, however, plays a role in this process. It can challenge such national actions, while at the same time it can recommend the introduction of temporary internal borders if a member state persistently fails to manage its external borders (cf. European Commission MEMO 2010b, 2011c; European Commission Press Release 2010e, 2014b: 3, 2015a).

The inclusive arrangement for movement within Schengen became possible because of the establishment of a common visa policy, aimed at harmonizing the rules member states use for the issuance of visas for the entry into Schengen. Such harmonization was advocated for the prevention of visa shopping—TCNs gaining entry into Schengen through member states that apply less stringent criteria. This is a problem because in a border-free territory such individuals can then move to an area they would not be allowed to enter had they applied for access to its authorities. Thus, in 2009, the EU adopted a Visa Code. Its key features, as outlined by the Commission, are that it sets out the procedures and conditions for issuance of short-stay (up to three months) visas and airport transits, and the agreement on a common EU list of the countries whose nationals need visas to enter Schengen (European Commission MEMO 2012a: 1. For more details, see European Commission Communication 2006a). The Visa Information System (VIS) is another linchpin of the common visa policy. It is a database through which Schengen states exchange information on all visa applications made. Since 2011, biometric data has also been included in it. The former Commissioner for Home Affairs Cecilia Malmström hails this as: ‘...a big step towards improving and modernizing the common EU visa policy’ (European Commission Press Release 2011d: 1).

Despite these achievements, in line with its executive functions and responsibilities for safeguarding the common EU interest, the Commission has persistently worked to further reduce formalities at the border. It has tabled proposals streamlining and simplifying relevant EU law (cf. European Commission Communication 2001c) and monitored the actual conditions at intra-Schengen borders (cf. European Commission Press Release 2010f or 2011f), proposing measures towards addressing the weaknesses identified. These measures are clearly aimed at strengthening EU-level decision-making, providing for instances when the supranational level can reintroduce national border controls following QMV in the Council. Furthermore, they foresee unannounced, on-the-spot, supranational monitoring visits (at a particular border crossing) (European Commission Press Release 2011e). The broad parameters of these Commission proposals were adopted in 2013 (European Commission MEMO 2013b).

These measures construct the post-modern EU borders within Schengen as porous, creating a space where not only are physical barriers to movement removed, but also identity divisions are rendered less significant. As articulated under the Commission discourse, the post-modern EU borders are highly technical, employing state-of-the-art technologies,

achieved through harmonization of key practices, like issuance of visas. A crucial aspect of the Commission contribution to the creation of these borders is its technocratic input, evident in the manner in which member states' compliance with Schengen rules is ensured through half-yearly reports (cf. European Commission Press Release [2012a](#) or [2013b](#)). It is also manifested more broadly in the logic of the biannual scoreboards reviewing the progress in the AFSJ under the Tampere Programme.⁸

These de-bordering patterns establishing the nature and key characteristics of the transforming EU borders are also identifiable in the Commission CEAS articulations. The stated overall goal has been the creation of a single EU protection area for refugees (European Commission Communication [2007a](#): 2). In this issue area, the ongoing refugee crisis provides significant recent developments. Even more importantly, it exemplifies instances when Commission articulations can be analysed as using windows of opportunity for further internal EU de-bordering and strengthening the role of the Union-level institutions.

Asylum became an issue of common interest for the member states in the 1990s. The overall goal in this field has been developing common procedures and uniform status across the EU for the people granted refugee status, so that member states do not diverge in their treatment of them. The Tampere Council decisions, and The Hague and Stockholm Programmes reaffirm these aims (summarized on the basis of Malmström [2010b](#): 2). Several important measures have come out of these. Directives regulating the criteria for a person to qualify as a refugee and stipulating the minimum rights granted to them in the EU have been adopted. Also, efforts have been put into ensuring minimum standards for the reception centres and treatment of asylum seekers as they arrive on EU territory; mechanisms for deciding which member state is responsible for the processing of an asylum application and for avoiding submission of an asylum application in more than one member state.⁹

With regards to the two mechanisms, the Dublin Convention has been at the heart of deciding the member state responsible for the examination for an asylum application (European Commission MEMO [2013a](#): 4 provides a brief overview of the criteria and their hierarchy), while the European Dactyloscopy (EURODAC) database has been used for avoiding the submission of multiple asylum applications (for a general outline of EURODAC, cf. European Commission Press Release [2010c](#)). To the extent that EURODAC, as VIS, uses high-tech IT to exchange information between member states, it shares important commonalities with it

and the ways in which it contributes to de-bordering. The efforts towards advancing and upholding common minimum standards on several asylum issues are reminiscent of measures under the common visa policy aimed at establishing a common EU space by ensuring a level playing field, which precludes abuses to the system.

The uneven spread between the member states of arriving asylum seekers due to geographical reasons has been a key reason for the Commission articulation of solidarity as an important element of the system (cf. Malmström 2013b: 3; European Commission Press Release 2014a: 1; European Commission Communication 2011c: 2). The Commission has implemented this principle through undertakings aimed at supporting the forefront member states, where asylum seekers first enter the Union territory from. These measures are exemplified by the establishment of asylum-related funds, aimed at sharing the costs of the CEAS (European Commission MEMO 2013c: 6 provide a brief overview of these), the European Asylum Support Office (EASO) or the advocacy of relocation to other EU members. Thus, key Commission undertakings for the establishment of the CEAS have been providing financial and practical support for the most exposed states, while also working towards the adoption and implementation of common EU standards and practices in this field. Many of the steps undertaken in the last five years or so are at least partly in response to the various shortcomings of the CEAS, identified in Commission documents (cf. European Commission Press Release 2010a,d, 2015b; Malmström 2010a).

From the point of view of the transformation of EU borders, the establishment of EASO and the Commission advocacy of relocation are of particular interest as they are indicative of the changing EU bordering practices. As with FRONTEX (for more details, cf. Neal 2009 or Leonard 2009), EASO's main goal is to provide operational cooperation and support the exchange of good practices within the CEAS (Malmström 2010a: 3; European Commission MEMO 2010a). This highlights that the change in EU bordering practices will occur gradually, through bottom-up institutionalization of practices. This advances above all a coordinating function for the supranational level, limiting its input and precluding the adoption of legally binding measures. Consequently, the final nature and function of the post-modern borders will emerge organically but likely after an extended period of time.

For its part, the application of relocation is a practical manifestation of the existence of a common European asylum space. Its idea is to alleviate pressure on the asylum systems of the most exposed members through relocating asylum seekers to other member states that will

examine their applications (Malmström 2010a: 4; European Commission Communication 2011c: 7). This reduces the salience of national borders between the member states. On the one hand, they accept on their territory people they may not have welcomed initially. On the other hand, the ability of deciding on an asylum application by different member states requires a significant level of cooperation within the EU. This in itself demonstrates that traditional borders are transformed as member states manifest a degree of solidarity, appreciating that the well-being of one is conducive to the well-being of all. If supranational institutions decide on issues like the need to start relocation or the specific numbers of people to be relocated, traditional borders are challenged further as national governments lose the ability to control their borders through deciding on granting entry on their territory. Furthermore, specific border controls decisions, such as who qualifies for entry into a member state territory or how many asylum seekers a state should accept, are left to the EU-level institutions, like the Commission.

Until recently, relocation had a modest record in the CEAS with a pilot project conducted in Malta, which relocated only several hundred people as a voluntary activity by the member states (Malmström 2010a: 4; European Commission MEMO 2011b: 2 or 2013c: 7). However, since the surge of arrivals in 2015, not only has the Commission tried to significantly increase the number of asylum seekers relocated, but more importantly, contrary to its previous position (European Commission Communication 2011c: 7–8), it has attempted to make relocation mandatory and to centralize decision-making at the EU level (European Commission Communication 2015a). Member states have reluctantly agreed to accept greater numbers but have strongly resisted the mandatory element in the Commission proposals, initially opting for continuation of voluntary relocation (cf. Gotev 2015; Guild et al. 2015: 40). This is one area where, given persistence of the migratory pressures, one can expect significant developments in the near future, possibly leading to further de-bordering and transformation of EU borders. Indeed, later in 2015, despite strong opposition from four East European member states, quotas for more equitable asylum seekers distribution within the CEAS were agreed upon. Despite criticisms of the details, some of which will be discussed below, practitioners rightly emphasize that this is a very significant development, as it enshrines an important shift in the thinking about asylum in the EU (Traynor and Kingsley 2015). Given the intensity of the refugee problems the CEAS experienced in 2015, more precise analysis of the effects of these developments on the transformation

of EU borders is best reserved for when the dust settles. This will enable gathering more detailed information and attaining a better perspective.

Besides transforming territorial borders, Commission border controls articulations also have implications for identity borders. As with territorial borders, Commission discourse contributes to the emergence of a common EU space but this time through the enunciation of a shared European identity. There are two major themes in the discourse that have this effect—the EU citizenship as promoting the feeling of belonging in the Union and the necessity to develop mutual trust and enhanced cooperation between the member states as a prerequisite for the successful achievement of the AFSJ aims. These can be illustrated with the following examples, respectively: ‘...these rights are becoming an integral part of the legal heritage of *every citizen* of the European Union...’ (European Commission Communication 1998a: 2, emphasis added) and ‘This implies reinforcing the existing mutual trust with Member States ... the exchange of information between law enforcement authorities ... between different Member States is vital’ (Frattini 2005b: 3).

This discourse also promotes a particular meaning of European identity, which reflects the Commission’s understanding of the EU Self. The key characteristics of the Self as articulated by the Commission are a tradition of tolerance, welcome and shelter (Malmström 2010a: 6), equality, respect for human rights, the rule of law and human dignity (Malmström 2011b: 2; Avramopoulos 2014: 1), solidarity and cooperation between the member states (European Commission Press Release 2011g: 1; Malmström 2014a: 2). On the basis of these, the Commission sees the CEAS as a system living up to European humanitarian traditions. It allows for the equal treatment of asylum seekers (European Commission MEMO 2011d: 1) that preserves their dignity, in compliance with international standards for protection (Malmström 2011b: 4). Given the above-mentioned criticism observers have posed to EU migration policies, it is unsurprising that Commission documents consistently underscore the importance of the CEAS’ conformity with this understanding of the Self and articulate measures undertaken as concurring with the proclaimed norms (cf. European Commission Press Release 2010a: 3, 2010b, 2011b,c: 1; European Commission MEMO 2011a).

The articulation of a European identity undermines traditional borders, since in the modern era, the dominant form of identification was the national one. The enunciation of identities different from the national identity erodes the state’s dominance in the relevant processes, providing

alternatives for individuals and groups, who can now choose from an expanded number of options. This ability to have multiple, overlapping identities is a key feature of the post-modern era. It blurs divisions between people, as one can belong to various groups simultaneously. This facilitates the establishment of more porous borders. The Commission contributes to this process by advancing the view that there is a European identity and articulating a particular understanding of what it means to be ‘European’. Thus, as a result of the privileging of identifications at above-the-state level in the Commission discourse, it transforms borders by creating a common EU space with a shared identity.

Constructing External EU Borders

The flip side of all the articulations discussed so far is that a new, external EU border is advanced. Although it comprises of parts of national borders of the member states, it exhibits distinct features, which further clarify the essence of the transformed EU borders in the field of border controls. Firstly, the external EU borders run through the 26 states that are currently fully participating in Schengen. Inevitably, this brings a challenge of enacting border controls within diverse border management systems, necessitating devising ways of allowing for effective cross-national cooperation. Secondly, this pressure is further compounded by the above-mentioned prevalence of framing migration issues as a security matter. At present, external EU border controls problems are further exacerbated by the fact that, thirdly, the current influx of refugees is uneven, concentrated at the Union’s southern and eastern flanks. Thus, the transformed borders at the external edges of the EU rely in important ways on the national border controls capacities of the member states (Hobbing 2006: 161). Simultaneously, they have experienced efforts towards introducing some supranational elements in the border controls system. Key characteristics of these developments are the lack of legally binding measures with a focus on harmonization of practices and operational cooperation instead, exchange of information, use of cutting-edge technology and cooperation with third countries for return of unsuccessful asylum seekers.

These enable the establishment of selective borders, aimed on the one hand at ensuring the quick processing at the border of the travellers the EU aims to welcome. These comprise tourists, business travellers, researchers and students, who, according to Eurostat, contributed €271 billion to the Union economy in 2011 (Malmström 2013a: 2).

People from these categories can participate voluntarily in the EU Registered Traveller Programme aimed at facilitating border crossings by introducing simpler and faster border checks (Malmström 2013a: 2). Although such TCNs still face certain formalities at the external EU borders, on the whole they cross them with relative ease, thus experiencing this border as rather porous. However, poor, less educated people or asylum seekers have faced increasing difficulties to satisfy the requirements for legal entry into Schengen. This is why on the other hand for some, the EU external borders are experienced as increasingly difficult to overcome, marking the territory of ‘fortress Europe’.

Such distinctions between people enunciate various identities. Crucially, these statuses are of significance given the activities and opportunities they enable or disable. Such identity differentiations come on top of the differentiation between EU nationals and TCNs, and between TCNs who need to have a visa for entering the EU and those who are exempted. The former emerges due to the different rights EU and non-EU nationals have with regards to entering the EU territory. While EU citizens enjoy this right, non-EU nationals can be refused entry even if possessing a valid visa (European Commission Communication 1995: 17). For its part, the variance between TCNs in terms of the requirement for a visa for entering the EU has led to common lists of countries whose nationals need a visa and those who do not (European Commission Communication 1993a).¹⁰

Another important aspect of these articulations is that migratory pressures and illegal migration are enunciated as some of the key threats to the Union (cf. European Commission Communication 2001a: 25, 2006b: 2), along with terrorism and organized crime. Inevitably, this engenders an understanding of migrants as the Other, which impedes their social integration, potentially leading to significant socio-political problems down the line. Furthermore, Commission discourse uses these threats as one of the main rationales for advocating common action and greater integration (cf. European Commission MEMO 2005a: 1; European Commission Communication 1998b: 7, 2005a: 4–5), which in turn reinforces the emergence of a salient external EU border accompanied by rigorous border controls.

A key element of this border is the use of cutting-edge technology. One aspect of this is the exchange of information under VIS or Schengen Information System (SIS) (including SIS II), which according to the Commission aims: ‘to facilitate checks at external border checkpoints and within the territory of the Member States’ (European Commission

Communication 2004b: 7; for similar thinking, see also European Commission Press Release 2007a: 1; European Commission MEMO 2005b, 2006a). To that end: ‘A joint list of persons to whom the Member States shall refuse entry to their territories shall be drawn up on the basis of national notifications’ (European Commission Communication 1993a: 27). Another aspect is the tools employed during the operational cooperation for the management of the external border, such as the latest surveillance equipment or software enabling risk analysis (cf. European Commission Press Release 2011c or European Commission MEMO 2013c: 1–2). Although these are performed by the semi-autonomous FRONTEX, the Commission discourse consistently upholds their added value (European Commission Press Release 2013c: 2).

When promoting common external borders management, the Commission has opted for encouraging member states’ cooperation and sensitivity towards political realities and national uneasiness over sovereignty loss. Consequently, despite the Commission preference for the establishment of a European Border Guard, it accepted the achieved agreement for the creation of a body, FRONTEX, with a more modest mandate (Hobbing 2006: 170–5; see also Neal 2009). Simultaneously, persistence and determination to use windows of opportunities are also discernible from the Commission record. For example, in the end of 2015, against the background of growing refugee pressure, it presented a borders package that envisaged strengthening and extending the roles and mandates of the Agency supporting member states in the management of the external EU borders. Significantly, it proposes renaming FRONTEX as a European Border and Coast Guard Agency (Avramopoulos 2015c: 1). This demonstrates the Commission’s long-term dedication to its preferred policy developments and the use of entrepreneurial skills and cultivated spillover for their attainment. It remains to be seen whether it will be successful in this particular instance—if so, on what terms—and how this will contribute to the transformation of EU borders.

A third example of the use of cutting-edge technology for EU external border controls is the proposal for the introduction of an entry/exit system under the so-called Smart Borders package. It will register and calculate electronically TNCs’ stays in the EU and alert the national authorities if there is no exit record by the visa expiry date (European Commission Press Release 2013a: 2). Also, employing hi-tech equipment and relying on systematic checks against databases are important modifications of the Schengen Border Code proposed by the Commission in

the end of 2015. It provides for obligatory checks at the external borders on everyone, so that terrorists who are EU citizens do not slip through the net (Avramopoulos 2015c: 1). The implementation of this measure is likely to be criticized as infringing on liberty. Nevertheless, if adopted, it will eliminate an important border controls practice, which currently contributes to the distinction between EU citizens and TCNs: the exclusion of EU nationals from systematic checks at the external EU borders. As human rights and civil liberties activists are likely to point out, however, this inclusive move simultaneously enunciates an external EU border that erodes many of the core values discussed above, which the Union claims to uphold and represent. The next section discusses in more detail the issues pertinent to such criticisms.

Such tension is a result of the view, which practitioners and policymakers have managed to inculcate as a key principle for the integration in the area of border controls, that a secure EU is predicated on stringent measures at the external Union borders. They have maintained that such compensatory measures are a must for the attainment of a secure AFSJ free of internal borders. The Commission discourse affirms this position and helps bring these measures into existence through the policies and acts discussed above. For example, according to a 2005 document: ‘The creation of an area where people can circulate freely should never represent a loss in terms of security for the Member States’ (European Commission Press Release 2005a: 1). Similarly, elsewhere the Commission proclaims that: ‘Free movement of persons within the Schengen area ... requires action to counter security deficits caused by the abolition of border controls as perpetrators of criminal acts are equally able to move as freely as law abiding citizens. Impunity caused by obstacles to cooperation must be removed’ (European Commission Press Release 2005b: 1).¹¹ Thus, the Commission has promoted the view that the establishment of the AFSJ should be accompanied directly by a ‘flanking measure to the free movement of persons with respect to external border controls’ (European Commission Communication 2001a: 11).

All of the above points suggest that despite significant innovations on border controls, such as intensive exchange of information or operational cooperation for the management of the external EU border, on the whole the thinking that had inspired traditional bordering practices persists. This is evident above all in the continuation of the thinking that EU security depends on the implementation of certain exclusionary practices, which in turn rely on enacting decisive and, if need be, forceful actions at the

external border. As Broeders puts it succinctly, this is tantamount to: ‘changing methods rather than goals and intentions’ (2007: 77). Thus, when it comes to the transformation of external EU border controls, the changes are more at the secondary matters (such as how exactly the borders are patrolled), while the fundamental ideas and thinking are similar to those underpinning traditional borders.

Given the transgovernmental nature of the integration in this field, the Commission has had limited ability to independently exercise any significant influence. It has favoured further cooperation, an enhanced role for the supranational institutions and simplified rules for the governance of the field (cf. European Commission Communication 1992: 6; 2004a: 3, 5; Frattini 2005a: 5; Vitorino 2003a: esp. 5). Crucially, however, as anticipated by neo-functionalists, the Commission discourse contributes to the emergence of a salient external EU border with a vigorous border controls regime. It also accepts the key rules promoted by the member states guiding the functioning of the field and facilitates their implementation in practice. When the Commission acts as an entrepreneur and works towards cultivated spillover, such as in the case of the creation of a European Border Guard, it does so without challenging these broad parameters of the transformation of the EU borders.

The last key measure that forms a part of the emerging EU border controls regime is the issue of return of failed asylum seekers and the related negotiations of re-admission agreements with third countries. Chapters 3 and 5 discuss in more detail some policies and bordering practices related to the emergence of the EU re-admission agreements with third countries, such as the Union’s global approach to migration or visa liberalization agreements. As far as return is concerned, according to Commission documents, increasing the number of failed asylum seekers who are returned to their country of origin or to a safe third country is not only a cornerstone for the success of the CEAS, but also still low (cf. the data on returns in European Commission MEMO 2014: 3 or 2015a: 4). Furthermore, its discourse on return conforms to the key elements of the transformed EU borders discussed already. One illustration of this is the proposed strengthening of the mandate of the European Border and Coast Guard Agency, so that it can initiate return operations, instead of just coordinating them under the Commission Border Package revealed in December 2015 (Avramopoulos 2015c: 1). Such border-transforming measures not only have attracted criticisms from observers and practitioners, but also, as discussed below, contribute to the recreation of internal EU borders in the field of border controls.

RECONSTRUCTION OF INTERNAL EU BORDERS THROUGH COMMISSION BORDER CONTROLS DISCOURSE

This section analyses this trend in detail by examining the inconsistencies and silences in the Commission border controls articulations. This sheds light on the limitations of the current de-bordering practices discussed above, revealing the instances when elements of traditional border controls practices persist and highlighting the vulnerabilities in the identifications articulated by the Commission. This clarifies further the nature and functions of the transforming EU borders.

Inconsistencies in the Commission Discourse

The major inconsistencies in the Commission border controls discourse revolve around the particular ways in which the key principles guiding the integration in this field—movement as within a state and solidarity—are operationalized. As demonstrated below, the particular meaning of these principles as articulated in the Commission discourse is potentially problematic. Arguably, it contradicts plausible interpretations of other elements of the discourse. This is the case especially for the understanding of the Self promoted by the Commission and the tensions between solidarity and responsibility under the CEAS. Although less profound in comparison, free movement also exhibits such problems. Therefore, overall, the measures articulated by the Commission for the attainment of the stated goals in these fields fall short of creating a common EU space. Instead, some divisions in the EU are recreated. Thus, the transformed EU borders are not simply new EU-level practices, which render national governance obsolete. Rather, they are a mixture of a simultaneous establishment of system-wide methods of border controls and the preservation of certain national prerogatives. These affect both EU territorial and identity borders.

In the case of free movement of persons, national territorial border controls, recreating internal EU divisions, arise out of the current limitations of the common EU visa policy. Its provisions deal only with short-stay visas. This leaves to the discretion of the national authorities of the member states the regime for and the issuance of long-stay visas, which clearly recreates territorial borders between the member states. This results in the re-emergence in Commission discourse of references to ‘member states’ national legislation’. For example, contrary to the inclusive provisions for

short stays (cf. European Commission Communication 1993a or 2006a), ‘Persons who propose to stay in a Member State other than for a short time shall enter that State under the conditions laid down in its national law’ (European Commission Communication 1993a: 26). Therefore, under Article 18 of the Convention Implementing the Schengen Agreement: ‘Visas for stays exceeding three months shall be *national* visas issued by one of the Contracting Parties in accordance with its national law’ (original emphasis).¹² For TCNs who are not subject to visa requirements, Article 20 (2) of the Convention Implementing the Schengen Agreement states that each member state has the right to extend an alien’s stay on *its* territory beyond three months in certain circumstances (original emphasis).

Such articulations clearly contradict the overall goal of creating a frontier-free area in the EU as declared under the SEA. Instead, they point to the existence of internal EU divisions, enunciating the persistent relevance of national borders and border controls in the Union despite the efforts towards their abolition. This trend is further reinforced by the particular ways in which the common Schengen visa for short stay is issued. According to the current practice, ‘The Member State which is the main destination shall normally be responsible for issuing the visa. If it is not possible to determine that destination, the Member State of first entry shall be responsible’ (European Commission Communication 1993a: 35). These principles are adhered to in the 2006 Code on Visas, which adds that: ‘When a visa with multiple entries is applied for, the Member State of usual destination shall be responsible for processing the application’ (European Commission Communication 2006a: 43). Also, a TCN residing legally in a member state without holding a residence permit from it, who has justified reasons for travelling to another member state: ‘shall apply for a visa at the diplomatic mission or consular post *of the Member State of destination*’ (European Commission Communication 2006a: 43, emphasis added). Thus, as Guild and Bigo argue: ‘the rules of application are strictly limited on the grounds of nationality—that of the state. The integration of the Union is not apparent here... The EU visa is a national *de facto* visa which gives facilities to enter the territory of the other States but which does not ensure the entry into a single territory where freedom of movement is guaranteed’ (2005: 247–8, original emphasis).

Such practices mean that TCNs applying for a Schengen visa still cannot submit their application to the diplomatic or consular mission of any EU member state but have to do so to a specific one. However, this goes against the aim of establishing Schengen as an area in which there

are no internal frontiers in terms of border controls. The ideal-typical implementation of such a goal would require reaching a condition where it is not necessary to mention which is the authority that issued the visa. If there is a uniform visa valid for the whole Schengen area, ultimately it should not be important who issues the visa. However, currently this is not the case. The continuing references to ‘member state responsible for the visa application’ presented above have the effect of bringing back national territorial distinctions between the member states, thus reconstructing internal territorial borders in relation to border controls in the Union.¹³ These articulations also have implications for identity borders. Given that they affect TCNs, they not only draw a distinction between these categories of people and EU nationals, but also vest them with specific meaning. While EU nationals can move free of border controls in the EU, TCNs do not enjoy this privilege so fully.

Despite such important inconsistencies, there are also significant achievements in the operationalization of the principle guiding movement of people in the EU. Although, as the discussion here has shown, there are still issues that need to be addressed in order to achieve a full-blown common EU space, progress has been made towards enabling the movement of people as within a state. More specifically, every day thousands of TCNs are able to move within Schengen without having to attain a different visa from the one they already have or pass through the internal EU borders without encountering border controls formalities. This is evidence for a certain retreat of the traditional bordering practices, showing transformation of borders through greater inclusiveness. As the CEAS case demonstrates, the guiding principles of integration in a given area are not always operationalized in a way challenging traditional practices to such an extent.

In this field, national governments have preserved more of their border controls responsibilities, indicating a less intense or deep borders transformation. The specific ways in which the Dublin Convention works and the significance of the struggle over relocation exemplify these. The former is an instance of reaching an intergovernmental deal over the specific national authority which will be examining a particular asylum application. The latter shows the need to provide explicit national consent for a particular person or group of people to enter their territory. Both demonstrate in practice the persistence and continued importance of national border controls. Consequently, de-bordering measures have been limited to matters of operational cooperation, financial support, harmonization

of practices or exchange of best practices. These have a bearing on the transformation of EU borders but are much less deeply penetrating in the short and medium term than the way in which the principle of free movement has been enacted. This clearly challenges attaining the goal of creating a common EU protection area, proclaimed in Commission documents. A recent confirmation of the recreation of internal territorial EU divisions caused by the way the CEAS is implemented is that the relocation agreed at the end of 2015 will work on the basis of allowing an asylum seeker access to benefits only in the state to which he/she is sent (European Commission Communication 2015a: 20; see also Carrera and Gros 2015). Although this is related above all to functional borders, to the extent that this provision is put in place to prevent so-called secondary movements,¹⁴ it also implicates border controls.

Relocation as currently articulated by the Commission also points to a tension between solidarity and responsibility. As shown above, the 2015 surge in asylum seekers was used by the Commission for promoting a mechanism for mandatory relocation between the member states. This was seen as a crucial manifestation of the implementation of solidarity (cf. Junker, cited in European Commission Press Release 2015d: 1). However, the specific criteria used for determining the number of asylum seekers a member state should relocate on their territory have been criticized. For some, the components of the distribution key used by the Commission disadvantage the smaller, poorer, Eastern EU member states (Bovens and Bartsch 2015). Such findings raise important questions about the Commission understanding of solidarity, posing doubts on whether the burden of welcoming and accommodating asylum seekers is actually fairly shared within the CEAS.

Given that according to the Commission's own documents, solidarity is (among other things) support for the weaker and those in need (as suggested in Avramopoulos 2015b or European Commission Press Release 2015c: esp. 2–3), the possibility of placing a disproportionate burden on the less well-off members is very problematic. Furthermore, the Commission has argued that solidarity is in the self-interest of the CEAS members, as it is conducive to EU stability (European Commission Press Release 2011g: 2). Besides highlighting important shortcomings in the Commission interpretation of solidarity, this poses broader questions about whether some of the most pressing problems raised by the refugee crisis, such as the threatened temporary suspension of Greece's participation in Schengen (as alluded to in European Commission

Press Release 2016a) or this country's poor record on dealing with asylum seekers,¹⁵ could have been avoided. The Commission itself often emphasizes the need for responsibility of each state participating in the CEAS (cf. Avramopoulos 2015a: 1 or European Commission Press Release 2015e: 2). Still, the current shortcomings in the practical implementation of solidarity suggest that perhaps the present balance between these two pillars of the CEAS is skewed to the detriment of the most vulnerable EU members. Consequently, redressing this in a way that provides more support for the less well-off Union members will firstly contribute to further de-bordering, thus presumably transforming EU borders in accordance with the trajectory desired by the Commission. Secondly, as some have argued, well-motivated distribution keys yielding fair quotas can also facilitate cooperation on relocation (Bovens and Bartsch 2015: 3). This also has the potential to alleviate some of the current pressures on the CEAS.

These problems also touch upon another matter, on which the Commission discourse can be seen as inconsistent. This is the question of whether the way the EU currently treats the asylum seekers on its territory actually lives up to its rhetoric. This issue has implications for the EU identity borders. As evident from the discussion above, the understanding of the Self articulated by the Commission is centred on the modern liberal ideas of individual human rights. However, as two examples will illustrate, the Commission's adherence to these values in practice is sometimes doubtful. Firstly, back in 2004, the European Council on Refugees and Exiles rejected a draft EU Directive on asylum procedures due to breach of EU human rights commitments and of the member states' legal obligations. Despite that, the Commission was satisfied that these standards were in fact met and agreed that the provisions of the Directive were consistent with EU's international obligations (ECRE, Amnesty International, HRW 2004: 1). Secondly, a 2015 report refers to the shortcomings of Commission human rights guidelines, despite their invocation of human rights and proportionality. According to the authors, the Commission guidelines fail to foster trust between member states' authorities and migrants, as they feature physical force and detention threats in order to fingerprint the arrivals. Consequently, there are suggestions for setting up appropriate legal safeguards or limiting the use of force against individuals in a legally acceptable way (Guild et al. 2015: 37).

This not only runs contrary to the image of the EU articulated in the Commission documents. Crucially, it also suggests that for a certain category of people in the EU, their human rights are only notional.

In practice, they can sometimes be breached by authorities with impunity. This confirms the significance of the identity distinctions between TCNs discussed above, demonstrating the practical implication of belonging to the group of poor migrants or of asylum seekers. It also suggests that the transformed EU borders, contrary to the liberal ideas, discriminate against people on the basis of criteria beyond the control of the individual, such as country of origin or belonging to certain groups. Furthermore, this enables concluding that the post-modern order may be conducive to the creation of ‘grey areas’ where human rights abuses are more difficult to detect and combat.

This inconsistent adherence to human rights for TCNs is further aggravated by the tension in Commission discourse on border controls between freedom and security. As Bigo has argued, the understanding of freedom enunciated by EU documents is centred on ensuring the right to protection. This strengthens practices like surveillance in the name of freedom. Furthermore, it leads to efforts towards securing the EU territory from unwanted visitors, such as poor immigrants who are suspected of targeting the EU so that they can profit from the generous social benefits systems of the member states (2006: 36–7). This thinking, as discussed in the previous section, is easily discernible in the Commission discourse. It is conducive to the emergence of a visible and reinforced external EU territorial border and contributes to the emergence of identity divisions within the EU, as well as between the EU and the outside world. Crucially, however, it also exposes an important contradiction in the Commission discourse. Contrary to the liberal rhetoric outlined above, these articulations can be seen as eroding freedom, the foundation of liberal societies. As Bigo sums up well: ‘The proper notion of an active defence of freedom is distorted into a *war* for a kind of freedom—war against threat and fear where freedom is seen ... not [as] a capacity to act. This rendering of freedom may contradict freedom... Liberty as a unified and generic concept has no place’ (2006: 36).

All these inconsistencies unequivocally show that the Commission contributes to the recreation of internal EU borders, thus painting a complex picture of the nature and functions of the transforming EU borders. Simultaneously, however, this discussion suggests what possible steps can be taken if the aim is to achieve a common EU border controls space. Such steps include measures towards creating a common EU long-stay visa, providing more support for the member states at the forefront of the migration crisis or implementing steps for better protection of human

rights in the Union. As the next section shows, however, at present the Commission does not articulate a change to the status quo along these lines. Thus, there are significant absences in its discourse. An analysis of the reasons for these silences clarifies further the Commission's contribution to the transformation of EU borders.

Absences in the Commission Discourse

As with the other policy areas, there are two key reasons for the silences in the Commission discourse on border controls: firstly, the limitations posed to the Commission by the nature of cooperation in this particular field and secondly, the Commission acceptance of the assumptions on which a policy is built. Ultimately both contribute to the transformation of EU borders by recreating internal territorial and identity divisions. Nevertheless, an examination of the reasons behind the articulations sheds further light on the forces driving Commission behaviour. Such analysis is bound to be speculative in character, given that it is based on interpretations of articulations that are not made. Still, it is informed by references to interrelated issues in the Commission discourse and familiarity with the dynamics in the policy areas in question. This helps counter the problem by anchoring the discussion.

Measures such as development of an EU policy on long-term visas, greater support for the member states where asylum seekers first enter the Union or steps towards reinforcing the implementation of human and civil rights are possible means of addressing the current inconsistencies in the Commission discourse. We have seen that the Commission has tried to foster support for measures like relocation and has tried to streamline respect for human rights in the treatment of asylum seekers. Nevertheless, arguably more can be done. This, however, will require securing an agreement between EU policymakers for a more radical departure from the established principles. For example, the Commission could criticize FRONTEX practices more forcefully, in accordance with the critique posed by human rights activists. Also, it could challenge the continued primacy of national border controls in the CEAS. As we have seen, at present the Commission has not gone so far. The two broad reasons for this were outlined above. The question is, however, which of these reasons is guiding the policy action in which area? This is an important matter, as the answer will indicate the fields where Commission activism can be expected.

Broadly speaking, the Commission silences on long-term visas or measures for greater EU-level support for the member states where asylum seekers first arrive are the areas where absences are a result of limitations posed by the current governing structure. Thus, it can be expected that the Commission will be proactively observing developments there and, as in the case of relocation, will use windows of opportunity to foster greater integration. On such matters, the EU level, if not the Commission itself, can benefit from the advancement of measures conducive to de-bordering. This will mean greater powers and resources for the supranational institutions and bordering practices transformation towards creation of a common EU space.

Indeed, there are indications in the Commission border controls discourse that the current absences on the above-mentioned issues are a result of its present inability to go beyond a certain point in the promotion of the integration process. For example, the Commission acknowledges that further legal instruments will be needed to assure: ‘the exchange of data on long-stay visas which are not concurrently valid as short-stay visas by the VIS; this would need further political orientation in view of the absence of a common *acquis* for such visas’ (European Commission Communication 2004b: 2). This indicates that the reason for the absence of articulations on long-term visas is that currently there is no EU-level agreement providing for their issuance.¹⁶ At present, the Commission has no legal grounds on which to step in order to attempt to promote harmonization.

Thus, this absence is arguably best understood as the Commission anticipating the Council reaction to potential proposals and tailoring them accordingly. Consequently, this silence is a result of a realistic calculation that currently any attempts to establish a common long-term visa policy do not have chances of success. In turn, the Commission does not table any, in order to preserve its political capital. The current legal framework is also a plausible reason for other Commission silences, such as on the question of non-participation of all EU members into Schengen or the preservation of national border controls under the CEAS. Such calculations indicate a possible Commission challenge to the principles guiding border controls cooperation if it deems the circumstances favourable. If this were to occur, border controls practices are most likely going to be transformed along the lines of de-bordering, furthering the relevant trends in the nature and functions of the implicated bordering practices. For the time being, however, the Commission silences reinforce the current practices that are conducive to the recreation of internal EU territorial and identity borders.

However, when it comes to the observation of human rights or the question of the compensatory measures, judging by the present discourse, Commission subversion of the principles guiding cooperation is highly unlikely. This conclusion is based on the observation that at present the Commission's efforts are dedicated to improving current practices (human rights) and, as discussed above, upholding the assumptions on which the compensatory measures are based. This indicates that the Commission is likely to tweak the current border controls practices at best and to stand firmly behind them at worst. Contrary to the first silence in the discourse, here it broadly supports the status quo. This means that for the Commission, the current EU border controls transformations on these issues are on the whole on the right track. Consequently, no significant amendments to the nature and functions of the transforming borders are deemed necessary.

SUMMARY

This chapter looked at the issue of border controls analysing the transformations in the relevant bordering practices and the Commission contribution to this process. It demonstrated the complex changes occurring in the regimes regulating inclusion/exclusion matters. As in the other policy areas to be examined, there are trends towards the creation of a common EU space. This leads to de-bordering. For territorial borders this is manifested through the eradication of practices such as checks at the border or the imposition of other formalities. For identity borders, this comes about through the articulation of an EU identity and facilitation of cross-border movements for many people in the EU regardless of their nationality. At the same time, however, firstly, a salient external EU border is created and secondly, certain internal territorial and identity divisions are recreated in the Union. These refer to the emergence of groups such as EU citizens, TCNs, and wanted and unwanted migrants and to their different rights for entering into and moving within the Union. In turn, this recreates territorial borders for those with limited rights of movement to and within the common space.

All of the above shows that post-modern bordering practices are emerging, most notably with reference to de-bordering and the establishment of the external EU borders. While the former are aiming to be inclusive, there are strongly exclusive elements to the latter. Among the most innovative features of the transformed EU borders is their

hi-tech character. Nevertheless, many aspects of the new bordering practices conform to the traditional understanding of the function of border controls, such as, for example, the perceived need for compensatory measures. Coupled with the current limitations to de-bordering, which as discussed sometimes lead to affirmation of the continued significance of national control over entries, this indicates that the hollowing out of traditional state borders is only partial. On numerous issues, the member states have preserved their gate-keeping role, thus remaining the actor whose ultimate agreement is necessary.

This restricts the scope of action for the Commission. Although, as shown in the chapter, it has had important successes, it has also had to accept certain limits on de-bordering measures. For example, while the Commission's radical preference for free movement of persons based on the principles guiding movement within a state carried the day, in the CEAS, the measures have been less deeply penetrating. Nevertheless, against the background of the unfolding refugee crisis, the Commission has acted as an entrepreneur, looking for windows of opportunity and working towards utilizing the possibilities that have opened up. The proposals on relocation are an important example of this. At the same time, however, on matters like human rights or compensatory issues, the Commission arguably concurs with the member states. This preserves borders transformation at their current status quo, obstructing further metamorphosis into the post-modern era. Another important Commission contribution to the border transformation process is the technocratic nature of some interventions. Although understandable given the Commission role in the EU policy process, this impacts on the essence of the newly emergent bordering practices. As discussed in the following chapters, many of these trends are also discernible in other policy areas, such as social policy or free movement of people.

NOTES

1. For more details on the changes made to JHA at Intergovernmental Conferences in the period 1996–2004, see Niemann (2008).
2. For a brief outline of the way Schengen operates, cf. European Commission MEMO (2010b) or European Commission Press Release (2010e).
3. As Sterkx (2008: footnote 5) points out, however, in 2004 the European Council decided to postpone the official application of this provision until 1 April 2005.

4. These are a consequence of the provisions on these matters in Art. 2, point 15 of the Treaty of Amsterdam Amending the Treaty on European Union, the Treaties Establishing the European Communities and Certain Related Acts.
5. Commission references to the difficulties in intra-institutional bargaining include European Commission MEMO (2011e: 1, 2011f: 2, 2013c: 1).
6. This has prompted some to talk about the digital borders of the Union: cf. Broeders (2007).
7. It remains, however, to be seen if any significant alterations are made to this in light of the aftermath of the Paris attacks and the unfolding refugee crisis.
8. Links to these documents are available at University of Pittsburgh (n.d.).
9. The Commission thinking on these matters is outlined, for example, in European Commission Communication (2007a).
10. The actual lists have been reviewed and amended but the principle has been preserved.
11. The same ideas are also expressed almost 20 years earlier in European Commission Communication (1988: 32).
12. This stipulation is repeated in Council of the European Union (2001: 2).
13. Some Commission documents refer to a Common EU Diplomatic Service as a future goal. If and when this happens, this way of reconstructing internal Union borders will be overcome. In terms of the topic of this study it is important to note that such Commission articulations indicate a desire to move in this direction.
14. Movements within the CEAS; the movement of an asylum seeker from one member state to another.
15. This can be deduced from articulations such as European Commission MEMO (2011d,g) or European Commission Press Release (2011a: 2, 2012a: 1).
16. A rare example of a Commission document referring explicitly to ‘long-term visas’ is European Commission Communication (2001b: 4).

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Free Movement of People—Functional Borders Transformation

Besides territorial borders, the evolving EU migration regime has impacted on functional borders. Given that these borders regulate access to sites, like the labour market, changes in the provisions of the legal entitlements and the administrative procedures applicable in the member states inevitably transform borders. In fact, such transformations are crucial, as they guide the longer-term issues brought up by migration, such as who can reside in the EU and under what conditions one can reside in the EU or perform economic activities there. This chapter examines in detail these transformations as articulated in the Commission discourse under the banner of free movement of people (FMP). It demonstrates crucial similarities with trends established under the border controls regime, like creating selective borders or Commission entrepreneurship. Furthermore, although not referred to explicitly and thus forming part of the second reading, the Commission articulations also contribute to the creation of an external EU functional border and enunciate a particular meaning for the EU ‘Self’. The complexity of the matters implicated in the transformation of functional borders is magnified by the intricate network of policy issues involved in the process (i.e. professional qualifications, social security provisions or immigration), which are often governed by different EU rules.

Therefore, the analysis in the chapter is developed in three steps. The first one sketches out the main characteristics of EU arrangements on FMP, outlining the Commission prerogatives and key developments. The

second one develops the first reading of the Commission discourse and the third one engages with it critically. These enable highlighting the key transformations in functional borders and the Commission's contribution to the process.

FMP—GOVERNANCE, KEY DEVELOPMENTS, MAJOR LITERATURE FINDINGS

This section aims to provide the background to the subsequent discussion. To that end, it presents main points about the current EU regime for FMP, clarifying the varying Commission powers and limitations, important points in the evolution of cooperation on these matters and some pertinent scholarly arguments.

The EU's regime for FMP has evolved unevenly, creating a major fault line in current functional borders between EU nationals and TCNs. This transforms traditional divisions between national provisions for movement of people, contributing to the emergence of a post-modern Union system instead. A brief overview of its evolution highlights the multiple areas involved and the divergent ways in which FMP issues have been resolved. Crucially, these solutions have provided for widely deviating roles of the Commission in the governance of the relevant policies.

At its most basic, FMP has its origins in the Treaty of Rome, which stipulated a right for workers to move from one member state to another. More specifically, Article 48 of the Treaty establishing the European Economic Community (the predecessor of the EU) provides for the rights to take up employment in other member states; to move freely within the territory of the member states for work purposes; and to stay in a member state other than the workers' own for employment purposes. To that end, the Treaty of Rome envisaged the abolition of any discrimination based on nationality between workers of the member states regarding employment, work conditions and remuneration. Consequently, the issues covered by these provisions have come under supranational governance, which accords the central EU institutions like the Commission an important role. Indeed, this proved crucial in the subsequent few decades for the implementation of a myriad of measures that allowed putting these provisions into practice, enabling workers to move between the member states.

As Nugent points out, legislation and ECJ rulings have played a crucial role in this process, contributing significantly to clarifying and extending the rights to FMP in the Union. Broadly speaking, the main developments

that led to this can be divided into two main types. Firstly, these are steps undertaken towards establishing mutual recognition of many educational, professional and trade qualifications. Secondly, key facilitators have been put in place, like the foundation of various legal entitlements, irrespective of nationality and current residence, enabling education and job training, health care or social welfare payments (2010: 325). As Ferrera demonstrates, in the early years of the integration process, the ECJ played a crucial role, contributing through its decisions above all towards the establishment of access for the migrant workers to the social welfare systems of the host member state (2005a: ch. 4).

This emerging regime for FMP across the EU has since expanded significantly, broadening the categories of people covered by it. Before the Treaty on the EU was adopted in 1993, a narrow interpretation of the entitlement to free movement prevailed and it was only conferred upon workers (for studies that make this point, see Lahav 2004: 38–51; Sinn 2004; Geddes 2000: 44). With the establishment of Union citizenship under the Treaty of Maastricht, Article 8a, every citizen of the Union acquired the right to move and reside freely within the territory of the member states. This provision expanded FMP to non-economically active citizens, like students or pensioners. This considerably enlarged the scope for Commission action in terms of the fields in which it could now make proposals, resulting in Commission activity in areas stretching from eradicating obstacles to mobility in fields like education, training and research (European Commission Communication 1996a), to the right of residence (European Commission Communication 1999a). Despite this expansion of the applicability of the right to FMP, some scholars continue to argue that it ‘is still economically linked to a great extent’ (Carrera 2005: 721; a similar claim is made in Sinn 2004: 700). This suggests that EU nationals that do not meet certain economic criteria are very likely to still have their freedom of movement within the EU curtailed. This is an evidence of selectivity in the workings of the current Union functional borders, a trend contributing to the reconstruction of internal divisions within the EU, an issue that is elaborated on in the last section of the chapter.

Crucially, all these provisions for FMP under the European integration effort pertained to nationals of the member states. Consequently, in the first decades of the project, free movement of TCNs remained a national prerogative of the member states’ governments. This is a trend similar to the one noted with regards to territorial borders in Chap. 2. It creates a very important distinction between the rights to free movement

of TCNs and EU nationals, which in turn impacts the EU's functional borders regime. This division guides the organization of the discussion in the subsequent sections. It was only more recently that elements of this settlement have started to be challenged, albeit with only limited success, given the persistence of intergovernmentalism in the relevant policy processes. This means that when it comes to establishing free movement of TCNs within the EU, the Commission still needs to pay very close attention to the member states' preferences and to take them on board in its policy proposals. Inevitably, this makes establishing a uniform EU regime for FMP more difficult, instead leading to complex transformations of functional Union borders.

The early steps towards overcoming some of the difference in the rights of EU nationals and TCNs in terms of freedom to move within the Union were taken through secondary legislation and by the ECJ. These extended entry, residency and working rights to TCNs who are dependents of EU citizens (Hix and Høyland 2011: 277). More substantial progress on this matter became possible after the Treaty of Amsterdam brought immigration under the first pillar, thus strengthening the Commission stance on certain FMP-related issues within the EU policy processes. Following this, the 1999 Tampere Programme provided for approximation of national legislation on the conditions for admission and, crucially, residence of TCNs (Carrera and Formisano 2005: 2). These were the early steps towards levelling the EU playing field for movement of people, expanding some FMP benefits to non-EU citizens. Arguably, until FMP arrangements are changed fundamentally to enable free movement of everyone in the EU, the overall goals pursued with the establishment of the single market will not be met, as important internal EU functional borders will persist, with the associated adverse economic effects stemming from this. Although, given the nature of the issues involved, this is a very complex and highly sensitive issue, some further progress has taken place since the late 1990s.

More specifically, the above-mentioned provisions under the Tampere Programme led to increased legislative activity in the related areas. For example, there has been rising concern over guaranteeing TCNs rights as close as possible to those of Union nationals, so that discrimination is prevented and the EU's attractiveness for foreign talent is increased. Within this framework, the Commission made some important proposals, like the one on the conditions and rules for the admission of migrants for employment purposes (European Commission Communication 2001e).

On the whole, however, getting the member states' agreement on such matters has so far been elusive, which has obstructed the emergence of a post-modern FMP regime. Carrera and Formisano single out three key reasons for this. Firstly, progress has been hampered because of member states' sensitivity over potential loss of sovereignty. Secondly, there have been disagreements over the specific provisions of some of the Commission proposals. Thirdly, it has been difficult to bring the relevant issues under one umbrella, given the diverse national philosophies and legal systems of the member states (2005: 2–3). Consequently, on the whole, progress in this area has been slow and any achievements have been piecemeal.

One reflection of this is the scaled down provisions of the second multiannual programme on JHA, The Hague programme (European Commission Communication 2005f). Carrera and Formisano characterize them as 'less pioneering and innovative' (2005: 4), not least because member states reserved exclusive competences in areas, like admission of labour migrants. Consequently, in the mid-2000s, the limited Commission prerogatives in the areas of free movement of TCNs persisted. Among other things, this obstructed the development of EU immigration policy. In the words of Carrera and Formisano, an EU-level approach to labour migration remained the missing element for the establishment of a truly common EU immigration policy (2005: 3).

No significant change on these matters has occurred since, despite the entry into force of the ToL and the adoption of the 2009–2014 Stockholm Programme, the third multiannual JHA programme. Nevertheless, during this time a notable development has been the incorporation of the Charter on Fundamental Rights and Freedoms as legally binding under the ToL. This can be seen as the culmination so far of a trend towards codifying and entrenching in EU law key rights the EU and its member states stand by. The Stockholm Programme itself also expresses these efforts (see the provisions in Council of the European Union 2009: esp. 64–5). However, an overall assessment of the success of liberty-related proposals under the Stockholm Programme (thus, pertaining not only to free movement of TCNs) reveals substantial blockages in the Council of Ministers (Carrera and Guild 2012: 10), while there has been greater expediency over adoption of security-related measures.

In light of the current weaknesses of the EU migration regime, some of the key issues looked at by EU studies on FMP revolve around the emerging Union regime of integration of TCNs, the limitations of the current provisions for FMP (for an overview of the labour migration law,

see Guild 2005) and the low overall intra-EU mobility (for an overview of the major obstacles to internal migration in the EU, see Hantrais 1995: esp. 176–81). For example, Carrera has examined the current EU regime for inclusion of TCNs, criticizing it as antithetical to diversity and interculturalism and as linking immigration with insecurity (2006: 89 and 90 respectively). Other studies have engaged with the limitations for the free movement of nationals of the new member states (Carrera and Formisano 2005; Carrera 2005) and argued that there is a tight nexus between the limited channels for legal migration and the increase in illegal migration (Carrera and Formisano 2005).

So, overall, the legal and institutional landscape has evolved significantly since the SEA when it comes to FMP, contributing to the transformation of EU functional borders. On the whole, important headway has been made towards guaranteeing free movement of EU nationals, despite some persisting limitations. When it comes to free movement of TCNs, however, national functional borders are still prevalent. A key reason for this division is the great difference in the Commission prerogatives on FMP issues. While free movement of EU nationals is guided by supranational rules that allow for significant Commission input, the regime for movement of TCNs is still largely intergovernmental, preserving the leading role of the member states and limiting the scope for Commission interventions. Nevertheless, there is a growing awareness of the need to level the playing field through enabling everyone to move freely and the Commission has been one of the main EU institutions that have tried to do so. Given its limited powers when it comes to free movement of TCNs so far, it has not been particularly successful. Despite this, aiming to provide an overview of the Commission contribution to the transformation of functional borders due to the evolving EU regime for FMP, the next section reconstructs the Commission discourse in this field conducting the first reading.

FIRST READING OF THE COMMISSION FMP DISCOURSE— REDUCING THE SALIENCE OF EU FUNCTIONAL BORDERS

This section examines the transformation of functional EU borders as articulated explicitly in Commission documents. It demonstrates that in accordance with the overall goal of establishing an internal market, the Commission advocates the creation of a common space for the movement of people, thus reducing existing functional borders by aiming to facilitate

mobility within the EU. The analysis is focused on teasing out the specific ways in which the Commission has pursued de-bordering, which enables highlighting the distinctive features of the functions of the transforming functional EU borders. The section presents the de-bordering articulations pertaining to TCNs firstly and then looks at those relevant for EU nationals.

This organization is a result of the ambiguous FMP articulations in the various policy areas implicated in the transformation of functional borders. More specifically, while some enunciations imply de-bordering for everyone, others make a clear distinction between the rights of EU nationals and TCNs for free movement. The former is exemplified by articulations in the fields of education and mobility, which talk about the creation of an area on a Community-wide scale (cf. European Commission Communication 1996a: 1, 1997a: 8–17, 2006c: 14, 2007c: 2, 2007i; Diamantopoulou 2001g). The latter is illustrated well by the Commission Action Plan for Free Movement of Workers, which reads: ‘Third country nationals do not currently enjoy the right to free movement under Community law, and this proposal does not imply the granting of such a right’ (European Commission Communication 1997a: 12); ‘The right to free movement of workers ... gives *every European citizen* the right to enter the territory of any Member State in order to work or to look for work. The purpose is to open European labour markets to all EU workers’ (European Commission Communication 1997a: 12, emphasis added). This ambiguity is a result of the complex regime for movement of people that currently operates in the EU, as discussed above. Despite this, over the years the Commission has worked towards expanding the free movement rights to TCNs, thus contributing to the establishment of a common space for the movement of people.

The Commission has promoted the reduced salience of functional EU borders for TCNs through articulating measures in several main areas. Firstly, it has proposed extending EU provisions for coordination of national security arrangements to also cover TCNs (European Commission Communication 1997a: 12). In practice, this goal has been implemented through signing agreements with third countries that coordinate the social security systems between the EU and the respective third country. This allows nationals of these third countries to aggregate the insurance periods they have acquired by working in different EU member states (cf. European Commission Communication 2007g). Thus, these provisions follow the logic applied a few decades earlier when the free movement of

Community workers had to be implemented. However, now the aim is to extend the current provisions on coordination of social security benefits to cover not only EU nationals but also TCNs that move between different member states (for a general overview of the current system of social security coordination, see [European Commission n.d.-b](#)). This facilitates movement between EU member states for TCNs through removing previously existing legal and administrative barriers that are impeding it. In their place, they establish new structures that make it much easier for TCN workers to preserve their social security benefits acquired through work in various EU member states.

Secondly, the Commission has promoted the establishment of a common space for the movement of people through articulations aimed at reducing the differences in the rights of TCNs and EU nationals.¹ More specifically, it has aimed to clarify the rights under which long-term residents enjoy equal treatment with EU nationals. Furthermore, it has proposed measures that harmonize the conditions for conferring and withdrawing long-term resident status granted by a member state. Therefore, it has argued that: ‘there should be a common status for long-term residents, so that all third-country nationals residing legally can acquire it and enjoy it on much the same terms in all the Member States... For the sake of certainty as to the law governing third-country nationals, it is essential that acquisition of the status should not be left to Member States’ discretion where the conditions are actually met’ (European Commission Communication [2001f](#): 7). Crucially, this proposal, which was formally adopted by the Council in November 2003 ([EUR-Lex n.d.-e](#)), provided for a right for the TCNs to reside in a member state different from the one that conferred them the status (European Commission Communication [2001f](#): 29 and 34), thus reducing the salience of functional EU borders for this particular type of TCNs.

Thirdly, the Commission has promoted the access of TCNs to the EU labour market, a measure that clearly contributes to the transcendence of traditional functional borders between the EU member states, facilitating the emergence of post-modern ones. The measures articulated by the Commission have been resisted by the CoM, thus prompting an ongoing struggle between the EU decision-making institutions about the specific outlook of the EU labour migration regime. This stand-off is due to the heightened political sensitivities in the member states attached to labour migration issues and to the specific EU governance structure on these issues, which makes it difficult for the Commission to secure acceptance

of its proposals. Consequently, so far the Commission has not managed to pose a fundamental challenge to the traditional principles guiding the EU regime for free movement of TCNs for work purposes, instead contributing to a more gradual transformation of EU functional borders. More specifically, the Commission has not managed to establish an EU regime for free movement of TCNs for work purposes that confers a leading role to the supranational Union institutions. Furthermore, the current EU labour migration regime preserves key elements of the traditional bordering practices when it comes to the free movement of TCNs, by affirming the continued existence of important national requirements when it comes to admitting workers from outside of the EU.

The Commission's failure to establish an EU regime for the free movement of TCNs for work purposes is exemplified above all with the withdrawal in 2006 of its proposal that provided for common conditions and common procedural standards on the entry and residence of TCNs for the purposes of paid employment or self-employed economic activities (European Commission Communication 2001e). As the Commission makes clear, this set back was due to opposition in the CoM: 'Whilst the other European Institutions gave positive opinions, discussion in the Council was limited to a first reading of the text' (European Commission Communication 2007d: 3). Afterwards, the Commission adopted a more piecemeal approach, focusing its proposals on specific categories of TCNs (see also Guild 2007: 1; Carrera and Formisano 2005: 11–12). For example, it has proposed common entry and residence conditions for third-country seasonal workers (European Commission Press Release 2010h) and tabled a proposal for the conditions of entry of TCNs for the purposes of highly skilled employment (European Commission Communication 2007d; Guild 2007 for a good legal analysis of the provisions of this proposal), the so-called Blue Card Initiative. This indicates that the Commission is determined to work towards furthering the ability of TCNs to move within the EU for work purposes. Nevertheless, even if it is successful in the pursuit of its current approach, it is likely to contribute to the establishment of complex EU functional borders. More specifically, a key characteristic of these borders is likely to be their selectivity, as a result of the discrimination they will make on the TCNs benefiting from free movement in the EU for work purposes.

The emergence of this feature of the EU functional borders is evident in the provisions for the Blue Card. This initiative was inspired by the understanding that EU attractiveness for highly skilled TCN employees

could be enhanced only through Community action and could be implemented only if there was a common system for admitting such workers. In drastic distinction to the existing system in other fields of employment, this proposal envisages the possibility of a TCN moving more easily from one member state to another for the purposes of highly skilled employment only after two years of residence in the first member state (European Commission Communication 2007d: 7). Thus, this Commission proposal articulated a challenge to the current principles of movement of TCNs, trying to establish an interpretation along the lines of movement as within a state. However, the final version of the legislation that the Council adopted in May 2009 (EUR-Lex n.d.-d) watered down the post-modern elements and reinforced traditional functional bordering practices. For example, it allows the continued operation of national highly skilled admission schemes and envisages compliance with the national entry requirements (Kostadinova 2013: 273).

Nevertheless, the Commission articulation of the Blue Card Initiative is significant in the process of functional borders transformation. Firstly, it can be seen as a small step forward in the overall process of de-bordering as it establishes an initial framework based on the idea of allowing freer movement of certain TCNs in the EU for work purposes. Secondly, this Initiative exemplifies the entrepreneurial skills of the Commission in the processes of borders transformation. More specifically, in fostering the necessary agreement for the adoption of its proposal, the Commission employed cultivated spillover. It used key elements of the EU understanding of the ‘Self’ (elaborated on below) and articulated the Initiative as a necessary measure in response to the demographic and economic challenges facing the Union. Overall, despite the current weaknesses in the implementation of the Blue Card Initiative, the existence of the scheme can provide the Commission with future opportunities to promote further de-bordering.

All in all, the measures advanced by the Commission articulate a clear effort to establish an area for FMP by providing TCNs with greater rights to reside and work within the EU. This contributes to the transformation of functional borders by facilitating the transcendence of traditional national divisions on the regime for FMP. The key tool used by the Commission is the proposal of measures that would harmonize the rules and procedures used by the member states for granting TCNs rights to reside and work in the EU. Besides the proposals already discussed, this approach is also used in other bills, like those on the TCNs’ residence

permits (European Commission Communication 2003a) or the application procedure for a single work and residence permit for TCNs in the territory of a member state (European Commission Communication 2007e). As discussed in Chap. 2, de-bordering through harmonization of rules and practices allows scope for preservation of traditional borders. For FMP, this is, for example, expressed in frequent references to the ‘national law’ of the member states. Consequently, this transforms functional borders by putting in place mechanisms facilitating FMP in the EU. These, however, do not challenge the fundamental assumptions of national divisions, for example, by advocating the creation of EU-level structures for the management of labour migration to the Union. Consequently, the present articulations construct functional EU borders as a complex mixture of traditional and post-modern bordering practices.

Given its greater prerogatives when it comes to free movement of EU nationals, the Commission has promoted more forcefully the reduction of functional borders for this category of people, thus challenging the assumptions of traditional bordering practices. More specifically, it has articulated measures enabling Union citizens to benefit in practice from their rights to reside and work anywhere in the EU. To that end it has made proposals contributing to overcoming existing legal and administrative barriers to FMP. Furthermore, it has undertaken practical measures for the facilitation of free movement and has demonstrated support for allowing the workers of the new (East European) member states to attain access to the labour markets of the EU15 before the end of the transitional periods.

One of the key ways in which the Commission has contributed to the transformation of EU functional borders is through articulations facilitating the implementation of the right of residence anywhere in the Union. For example, it has monitored the implementation of the relevant Directives (cf. European Commission Communication 1999a). Furthermore, in response to a Report in 1998 identifying the persistence of obstacles to the free movement of people (European Commission Communication 1998a), it has sought to simplify the relevant EU rules (the key Commission ideas on these issues are contained in European Commission Communication 2001g; European Commission Press Release 2006a; and European Commission MEMO 2006c). Another key element of the Commission FMP discourse has been eradicating legal and administrative barriers obstructing labour market access for nationals of other member states. Several main problem areas have been tack-

led. Firstly, the Commission has worked towards insuring the portability of social rights (i.e. pension, healthcare, etc.) for mobile EU workers (European Commission Communication 1997b, 1998c, 2001h, 2005e; European Commission 2005). Secondly, it has articulated limitations to the member states' abilities to employ only its nationals for certain public sector positions such as the armed forces, the judiciary, the tax authorities and the diplomatic corps. This aimed at increasing the access to the member states' public sector jobs based on the understanding that posts concerned with administrative tasks, technical consultation and maintenance cannot be restricted to nationals of the host member state (for more details, see European Commission Communication 2002: 17–24).

Given that the Commission encountered difficulties in passing this proposal through the EU decision-making structures,² it has also utilized other measures at its disposal for facilitating movement of people, such as infringement. For example, in 1988, the Commission launched an action plan aimed at increasing the access to employment in some public sectors, such as teaching and public health care and has undertaken infringement procedures in the ECJ against Luxembourg, Belgium and Greece (European Commission Communication 2002: 18–19). The Court ruled in favour of the Commission in all these cases (European Court of Justice 1996a,b,c). More recently, the Commission launched an evaluation of national provisions pertaining to regulated professions (European Commission Communication 2013c). Although not all of them are public sector jobs, this is another articulation demonstrating an overall effort to reduce legal and administrative barriers obstructing EU nationals' access to jobs in the internal market. Thirdly, the Commission has aimed to facilitate the recognition of professional and vocational qualifications. On this question since the 1990s, in tune with the change in the discourse on social policy, one of the accents has been on lifelong learning (cf. European Commission Communication 2006c). Furthermore, it has promoted free movement for academics (European Commission Communication 1996a).

Despite the contributions of such articulations to the FMP, studies on EU mobility consistently show that overall a very low percentage of EU nationals exercise these rights. Traditionally, only around 2 % of EU workers were mobile (cf. European Commission Communication 2007b: 3; for more data on the mobility within the EU, see also European Commission Communication 2007c: 3–4; European Commission MEMO 2005c; Špidla 2006c; McCreevy 2007). More recently, in 2011, possibly due to

the post-2008 economic problems, this figure had gone up to 3.1 % of working age EU nationals (EU Labour Force Survey, cited in European Commission Communication 2013b: 2). This suggests that merely addressing legal and administrative functional borders is unlikely to lead to the creation of an area of FMP. Instead, complementary practical measures are also needed.

Indeed, the Commission discourse in the last two decades demonstrates awareness of this, articulating measures undertaken towards tackling practical obstacles to mobility. These efforts have resulted in the establishment of a number of EU-wide programmes and the launch of several card schemes in a variety of fields related to the FMP. Firstly, the European Commission has sought to promote the development of language and cultural skills (such as knowledge of other EU member states' societies) by supporting student exchanges between universities in the EU. The most prominent illustration of these efforts are the ERASMUS, LINGUA and SOCRATES programmes, the latter two of which have as one of their activities language teaching (for a brief overview of these programmes, see European Commission Communication 1996a: 34). Furthermore, the Commission has sought to promote language learning through putting a target of citizens in the EU learning at least two EU languages in order to be able to benefit from the occupational and personal opportunities offered by the single market (European Commission Communication 1996a: 29). Secondly, the Commission has sought to increase the information about the available job opportunities across the EU through the launch of European Employment Services (EURES) in September 2003. Over the next few years, it became one of the most visited Commission websites (for a brief overview of EURES, see European Commission Communication 2007b: 8), demonstrating the potential added value to encouraging EU mobility through practical measures. Post-2008 and in the context of Europe 2020, EURES has been one of the tools used for addressing the EU's unemployment challenge. More specifically, the network has been used to support finding jobs or apprenticeships for the EU's youth unemployed, with a target of 5000 work placements by the end of 2014 (Andor 2014: 4). Another important development has been the proposal for linking national employment services across the EU in an effort to make them more responsive to employers' and workers' needs (Andor 2014: 4).

Thirdly, the Commission has promoted free movement of EU nationals through articulating its support for the launch of Union-wide card

schemes, like the European Health Insurance Card and cards pertaining to the recognition of professional qualifications. For example, on the issue of the European Health Insurance Card, Commissioner Špidla has argued that: ‘The high acceptance of the European Health Insurance Card clearly shows that this EU-project gives added value to its citizens’ (cited in European Commission Press Release 2005d). Furthermore, he has praised the idea of the introduction of a European Engineer’s Card: ‘Engineers do not just pave the way for technical progress; they can also be pioneers through good practices for promoting mobility’ (Špidla 2006c: 4). Overall, the Commission promotion of FMP through the undertaking of practical measures demonstrates that it has a holistic view of functional borders and therefore adopts wide-ranging steps towards reducing their salience in the Union. This inevitably transforms borders through challenging traditional bordering practices.

In light of this, the Commission support for the termination of restrictions for free movement of nationals of the new member states is not surprising. More specifically, the Accession Treaties stipulate that unless an ‘old’ member state decides to waive it, there will be a seven-year transition period after accession before workers of the ‘new’ member states are allowed to seek employment in countries that have been members of the Union before them. During the 2004 enlargement, three ‘old’ member states (the UK, Ireland and Sweden) did not impose restrictions to free movement of workers from the former Communist acceding countries and in May 2006, several other member states lifted the restrictions (for an overview of the regime for free movement of workers from the ‘new’ member states of the EU, see European Commission n.d.-c, n.d.-d, n.d.-e; European Commission MEMO 2005d). The Commission has been consistently arguing in favour of free movement within the entire Union and supporting the lifting of the restrictions for East European workers. There are three main ways in which this position is articulated.

Firstly, the Commission has reiterated its commitment to free movement of labour throughout the EU. According to the Commissioner responsible for Employment, Social Affairs and Equal Opportunities, Vladimír Špidla: ‘Free movement of workers is one of the four freedoms of the EU and should be enjoyed by all. I urge all Member States to seriously examine whether transitional periods cannot be dropped’ (cited in European Commission Press Release 2005c; for the articulation of the same argument, see also European Commission MEMO 2006b: 2). Secondly, the Commission has pointed out on different occasions that the

free movement of East European workers has had an overall positive impact on the member states that have lifted the restrictions for the movement of workers from these countries. For example, former Commission President Barroso maintained that: ‘A recent analysis from the Commission clearly shows that workers’ mobility from the EU Member States in Central and Eastern Europe to the EU15 has had mostly positive effects’ (2006: 2). More specifically: ‘Workers from EU10 helped to relieve labour market shortages and contributed to better economic performance in Europe. Countries that have not applied restrictions after May 2004 ... have experienced high economic growth, a drop of unemployment and a rise of employment’ (European Commission Press Release 2006b; for similar articulations, see also Špidla 2006c: 3; McCreevy 2007: 3). Also, there is a line in the discourse that points out that there have not been spectacular flows of migrants to the member states that opened up their labour markets and no serious disturbances to labour markets (Frattoni 2005c: 2; European Commission MEMO 2005c: 6). Thirdly, the Commission has expressed its satisfaction that more ‘old’ member states are dropping the restrictions before the end of the seven-year transition period. For example, Commission President Barroso welcomed: ‘the recent announcement that Finland, Portugal and Spain will join Ireland, United Kingdom and Sweden in lifting ... restrictions on the free movement of workers. I look forward to more countries joining the club!’ (2006: 2) Commissioner Špidla has also made similar statements (European Commission Press Release 2006c: 1).

These articulations clearly show the Commission effort to establish an area for FMP in the EU, thus reducing the significance of traditional functional borders. Crucially, as the discussion shows, the Commission has had a holistic understanding of the necessary measures for attaining this aim. Consequently, it has not only promoted the eradication of legal and administrative functional borders but also tackled a number of other fields obstructing the free movement of Union nationals, such as increasing the knowledge of EU languages among the population. Furthermore, the Commission has advocated the opening up of labour markets of the EU15 to the new member states. Such articulations are conducive to enabling the circulation of EU citizens within the Union freely, thus overcoming traditional borders.

Besides transforming functional borders, the above Commission articulations contribute to the emergence of a common European identity. On occasion, the Commission discourse points this process out. This is well

exemplified by the following statement: ‘Transnational mobility ... contributes to the development of ‘European citizenship’ complementing existing citizenship, of the country of origin’ (European Commission Communication 1996a: 1). This is because in the Commission view, with the increased freedom of movement: ‘should come a growing European consciousness instilled through greater awareness of others as a result of exposure to new cultures and societies. Mobility within the Community *ought to contribute to the development of solidarity between all Europeans at all levels*’ (European Commission Communication 1996a: 1, emphasis added). This is considered to be a fundamental condition for the emergence of a true ‘citizens’ Europe’, without which it is impossible to conceive of a European social area (European Commission Communication 1996a: Summary).

Such articulations, however, also contribute to distinguishing the EU from other parts of the world, thus creating external borders for the Union. More specifically, the Commission articulations advance a specific meaning to the above-mentioned notion of European identity. Furthermore, the practical measures for FMP the Commission promotes are potentially first steps on the route to establishing an EU regime for the residency and free movement of TCNs across the EU. However, given the limited Commission powers in the area of FMP, there are also articulations conducive to the recreation of internal functional EU borders. The next section, which conducts the second reading of the Commission FMP discourse, looks into these issues in detail.

SECOND READING—COMMISSION FMP DISCOURSE AND THE RE/CONSTRUCTION OF BORDERS

This exposes an ongoing struggle between the member states and the Commission about the EU migration regime, which transforms EU identity and functional borders. On the one hand, since the beginning of the new millennium, the Commission has managed to attain some important gains, thus contributing to the establishment of the Union’s external identity and functional borders. On the other hand, however, the member states have retained important prerogatives when it comes to movement of people, which has recreated internal EU divisions. The former is articulated through the Commission enunciations on legal migration to the EU. The latter is enunciated through the inconsistencies and silences in the Commission FMP discourse. This section examines each of them in turn.

Constructing External EU Borders

The construction of EU external borders through the FMP discourse has been boosted significantly since the turn of the millennium, when an important shift occurred in the Commission discourse. Namely, at that time, Commission documents started to enunciate legal migration as a focal point of a proactive immigration policy; a policy which crucially the Commission began to advocate during the same period. Its aim was to develop the tools that would allow controlling immigration according to the needs of the European labour market (Apap 2002: 315). Thus, Commission documents started to emphasize the increased possibility for legal migration into the EU (cf. European Commission Communication 2004c, 2007h; Frattini 2005d, 2007d), while senior Commission officials distinguished legal from illegal migration (cf. Frattini 2005c: 3; Prodi 2002: 2; or Ferrero-Waldner 2006: 2). A key Commission document expressing its thinking on these issues is the Communication on the global approach to migration and mobility (GAMM) (European Commission Communication 2011d). This discourse has enabled the Commission to contribute to the construction of the EU's external identity and functional borders. The former advances a particular understanding of 'European', thus vesting EU citizenship with a specific meaning. Building on this, the latter has witnessed the first tentative steps towards establishing EU-level measures enabling migration to the Union for TCNs. Below, the particular features of these articulations are elaborated on, thus outlining the specific characteristics of the emerging EU external borders as enunciated by the Commission.

The Commission FMP discourse contributes to the emergence of EU external identity borders by presenting EU demographic trends as threatening (for more details, see Frattini 2005c: 2, 2005d: 2; Ferrero-Waldner 2006: 2; or Vitorino 2001a: 3). More specifically, since the new millennium, it articulates the ageing of the EU population as endangering Union productivity, through creating manpower shortages and putting unsustainable burdens onto social security spending (cf. European Commission Communication 1997b: 1, 1999b: 9; Špidla 2006b: 3; Frattini 2007a: 2, 2007d: 2). Crucially, although the Commission acknowledges that there are differences between the member states' demographic trends, it argues that on the whole the EU will be affected in much the same way (cf. Frattini 2005c: 2, 2005d: 2 or 2007a: 2). This downplaying of the differences between the member states is an important discursive practice,

which will also be displayed in the field of social policy. Generally speaking, it encourages a perception of the EU as an entity. It is precisely this understanding that brings the external identity borders into being because it allows references to ‘Europe’ in the Commission FMP discourse (Frattini 2005c: 2, 2005d: 2, 2007b: 2, 2007d: 2; Ferrero-Waldner 2006: 2). These contribute to understanding the EU as something different and identifiable from the rest of the world. Namely, as elaborated on below, Commission articulations on legal migration construct a particular vision of the Union and its ‘Others’.

One of the ways forward in addressing the current economic and demographic threats identified in the Commission discourse is to make sure the EU is attractive to highly skilled migrants. As Franco Frattini declared: ‘We want Europe to become at least as attractive as favourite migration destinations such as Australia, Canada and the USA’ (Frattini, cited in European Commission Press Release 2007b). This is because: ‘To maintain and improve economic growth in the EU, it is essential for Europe to become a magnet for highly skilled immigrants and, at the same time, to attract high calibre students into European Universities... We must work hard to make the EU an attractive destination for such people’ (Frattini 2007c: 4). Furthermore, according to Commissioner Frattini: ‘Europe’s ability to attract highly skilled migrants is a measure of its international strength’ (cited in European Commission Press release 2007b). However, to achieve this: ‘Europe has to compete against Australia, Canada, the USA and the rising *powers* in Asia’ (Frattini 2007a: 2, emphasis added).

These articulate a particular meaning of the EU, thus constructing its identity. More specifically, these enunciations link ‘the EU’ with a number of (economic) powers across the globe as well as ‘international strength’. Thus, the suggestion they make is that the Union is one of the strong players in the international arena. Furthermore, these comparisons enunciate a number of ‘Others’ for the EU. These are other global or regional powers—the USA, Canada, Australia and the ‘Asian tigers’. In distinction to the discourse on social policy, however, discussed in Chap. 4, the articulations of ‘Others’ on legal migration do not construct the EU as superior.

This understanding of the EU’s ‘Others’ is continued in the choice of countries the Union’s statistics on legal migration are compared to: ‘85 % of unskilled labour goes to the EU and only 5 % to the USA, whereas 55 % of *skilled* labour goes to the USA and only 5 % to the EU. We have to reverse these figures’ (Frattini 2007a: 2, original emphasis; for similar data see also Barroso 2007a: 5). Also: ‘*The EU as a whole* ... seems not to

be considered attractive by highly qualified professionals ... for example, the EU is the main destination for unskilled to medium-skilled workers from the Maghreb (87 % of such immigrants), while 54 % of the highly qualified immigrants from these same countries reside in the USA and Canada' (European Commission Communication 2007d: 3, emphasis added). Importantly, these also articulate another significant 'Other' for the EU: 'unskilled labour'. This is the case because the above quotations clearly show that the Union's goal is to attract more skilled migrants, so that it changes the statistical data in a way positive for itself. Therefore, this also indicates a perception of the 'Self' in the EU as an entity that is highly productive, at the forefront of international economic competition and engaged in branches of the economy that require a highly qualified labour force. This perception of the 'Self' is also evident in the Commission social policy discourse. However, in the area of FMP, the Commission discourse clearly shows that the EU has to improve itself further because at present the data does not indicate the desired state.

Having thus articulated the existence of the EU as an entity in its own right, it becomes possible for the Commission to promote Union-level actions aimed at enabling addressing the challenges identified and safeguarding the successful existence of the 'Self'. This contributes to the establishment of the EU's external functional borders that transform traditional bordering practices and enshrine the emergence of post-modern inclusion/exclusion dynamics in the field of FMP.

A statement by the former Commission President Barroso sums up well the areas which the Commission sees as most problematic and obstructing the establishment of EU's legal migration regime. More specifically, he singles out the divergence of rules between the member states for the admission of TCNs, the lack of cross-border dimension in their legal migration policies and the gap in rights between EU nationals and TCNs (2007b: 2). In an effort to address these shortcomings in the Union migration regime, the Commission has articulated a number of measures which contribute to the creation of the EU's functional external borders through taking the first steps towards enabling the movement of TCNs in the Union. These encompass the provisions for long-term residents in an EU member state and for the employment of migrants, where since the late 1990s there have been a number of important Commission proposals. The measures envisaged can be divided into three main groups in terms of the tools employed for constructing the external EU functional border.

The first one is common legal action. Examples are the proposal on sanctions against employers of illegally staying TCNs (European Commission Communication 2007f); the proposal envisaging common status in the member states for long-term TCNs (European Commission Communication 2001f); and the proposals establishing common conditions of entry and residence for employed, self-employed (European Commission Communication 2001e) and highly skilled immigrants (European Commission Communication 2007d). Although the Commission has not always been successful in securing agreement by its EU decision-making partners, some of the measures envisaged in these proposals have led to important changes in the practices of the member states. For example, according to Boswell, the approximation of legislation in the EU has put some member states under pressure to liberalize their national provisions on issues such as naturalization or the treatment of long-term residents (2003: 26).

The second type is measures that simplify and unify the issuance of documents, such as residence and work permits, by the member states. It is exemplified by amended rules on the uniform format for residence permits of TCNs (European Commission Communication 2003a) and the proposal for a single application procedure for work and residence permits for TCNs on the territory of a member state (European Commission Communication 2007e). The third one concerns the convergence of the policies of the member states on legal migration issues. An illustration of this approach is the Communication on the open method of coordination (OMC) in this field (European Commission Communication 2001d) and the common agenda for integration of TCNs in the EU (European Commission Communication 2005d). For the Commission, these measures facilitate: 'a gradual and smooth move from national to Community rules ... [by] giving a common legal frame to Member States and ... determin[ing] common definitions, criteria and procedures regarding the conditions of entry and residence of third-country nationals' (Vitorino 2003b: 3). For example, the push towards more equal treatment of TCN and EU employees started in 1994 with the Commission White Paper on Social Policy (Geddes 2000: 160).

These articulations contribute in important ways to the establishment of the EU as an entity on this matter, which has its own distinctive system in comparison to the rest of the world. In turn, this erects the Union's external functional borders. Their key characteristic is that they are based on a gradual approximation of the member states' practices when it comes

to free movement of TCNs. In this process, the Commission plays a facilitating role (Barroso 2007a: 3), contributing to the establishment of the common normative framework and coordination of member states' policies (Vitorino 2001a: 5, see also Vitorino 2001b: 2). Consequently, at present, a key characteristic of the traditional bordering practices is preserved, the dominance of nation states in shaping migration regimes. In other words, contrary to developments in other policy fields, like border controls, in the area of FMP, so far there has been little transfer of prerogatives to the EU level when it comes to free movement of TCNs. This indicates that at present the Commission has not managed to challenge the fundamental assumptions of the existing bordering practices. Arguably, this is due to the restrictions the Commission faces in the FMP field, which limits the kinds of measures the Commission is likely to advocate openly. Nevertheless, in the last decade or so, the Commission has articulated undertakings that increase its involvement in EU legal migration and aim to facilitate the movement for work purposes between member states of TCNs.

The Commission's attempt to increase its role in the EU labour migration regime is best exemplified by the introduction of the so-called Mobility Partnerships. These were announced by the former Commissioner Frattini at a conference in Tripoli in November 2006. Their idea was to enable the Commission to directly negotiate with third countries the quotas for accepted TCNs into the EU on the basis of national quotas set by member states in view of their labour market needs (Frattini 2007c: 3, for other articulations of this proposal see Frattini 2007a: 7, 2007d: 7). More recently, this idea was incorporated into GAMM, where the Commission plays a mediating role between the EU member states and partner countries on issues like legal migration quotas (for more details and analysis of Mobility Partnerships under GAMM, cf. Angenendt 2014). Since 2008, the EU has signed such partnerships with several partner countries in its eastern and southern neighbourhoods. However, despite their potential, observers have pointed out important challenges to the Mobility Partnerships' current design (cf. Angenendt 2014: 7–8; Maroukis and Triandafyllidou 2013).

The Commission effort at facilitating movement of TCNs within the EU for work purposes is exemplified by the Blue Card Initiative, as it reduces the administrative and legal formalities for taking up highly skilled employment by TCNs moving between EU member states.³ Crucially, this initiative also challenges the premise of a member state's full control

over the entry of TCNs for work purposes, which could be a turning point in current bordering practices. Given the limitations in the present implementation of this legislation, discussed above, however, such a conclusion is premature as of yet. Instead, the present contribution of this initiative to the transformation of external EU functional borders is that it entrenches its selectivity. More specifically, this characteristic is established as a result of the distinction made between the TCNs, with the Union migration regime only facilitating the movement of highly skilled ones.

Overall, the external EU functional borders articulated by the Commission FMP discourse are fragile at best, indicating that TCNs still need to deal predominantly with national authorities. In turn, this suggests that contrary to the creation of a common Union space for the movement of people, as advanced under the first reading, so far the integration process has contributed to the reconstruction of internal borders in the EU. These emerge as a result of the inconsistencies and silences in the Commission FMP discourse, which are discussed in detail below.

Inconsistencies and Silences in the Commission FMP Discourse

The fundamental contradiction in the Commission FMP discourse is between articulations, like the one of former Commissioner Flynn, who talks about real European mobility (Flynn 1994c: 3) or the above-mentioned references to the European labour market and more qualified enunciations. The former imply that differentiations such as nationality or income eventually should not matter and everyone should enjoy the right to seek employment or circulate for other reasons anywhere in the Union without facing lengthy and tricky legal and administrative obstacles. The latter, however, restrict the mobility of some people. Crucially, this applies to both EU nationals and TCNs, thus transforming identity and functional borders in the Union.

For EU citizens, functional borders are recreated as a result of the lack of an EU-level social security system. Therefore, Union nationals taking up residence in a member state different from their own can only do so if they have sickness insurance and do not need social assistance in the member state they have moved to (cf. the provisions in European Commission Communication 2001g: Preamble, point 9 and 19 or 1999a: 5). As Carrera perceptively concludes, this means that: ‘the poor are indirectly excluded from the privilege of their free movement rights and excluded from the privileges granted by the EU status’ (2005: 705). Therefore,

the lack of an EU system under which people relying on social assistance can receive their payments in another member state obstructs their ability to move freely within the Union (Guild 1996: 35; Sinn 2004: 700 also makes this point). This constitutes an important functional border still obstructing the movement of some EU nationals, despite their citizenship of the EU.

Furthermore, such articulations also bring to the fore national matters when it comes to FMP, which prolongs traditional bordering practices, thus leading to complex transformations of functional borders. This trend is more evident with reference to movement of TCNs. For example, in contradiction to the inclusive provisions of the single market goal, the Green Paper on economic migration reads: *‘Member States will consider requests for admission to their territories for the purpose of employment only where vacancies in a Member State cannot be filled by national and Community manpower or by non-Community manpower lawfully resident on a permanent basis in that Member State and already forming part of the Member State’s regular labour market’* (Council Resolution, cited in European Commission Communication 2004c: 6, original emphasis). Such articulations recreate functional and identity borders in the EU as they facilitate the establishment of different categories of people in relation to their ability to move within the EU for employment purposes. The references to ‘national’ and ‘Community’ manpower enunciate these as the two categories of people that can benefit from a right of free movement in the EU. These two types are in effect juxtaposed to two other kinds of people: TCNs in general and the long-term resident TCNs. The latter two apparently do not enjoy a right to move freely in the EU for employment purposes because the Community preference principle only allows them to take up employment in their member state of residence.

Inevitably, this privileging of the member states is conducive to the existence of different national provisions for FMP, which the Commission has to tackle. A good illustration of this is the Communication on the implementation of the Blue Card Initiative, which points out a number of differences between the member states in their enactment of the relevant provisions (European Commission Communication 2014). Ultimately, these are a result of the current inability of the Commission to overcome member states’ preferences on key FMP issues. This leads to important silences in the discourse, which prolong traditional bordering practices.

The matter of free movement of labour from the member states that joined in 2004 and 2007 illustrate this point well. Despite all of the rheto-

ric that encourages and welcomes the opening of the labour markets of the ‘old’ member states to workers from the ‘new’ ones, the Commission discourse was silent on actively promoting a more inclusive arrangement for the movement of workers from the new member states. More specifically, the Commission failed to challenge and attempt to extend the provisions of a particular arrangement for the free movement under the Accession Treaties. This was the stipulation that gave a worker an access to the labour market of an old member state if that person had a contract for 12 months or more (cf. European Commission Communication 2002: 5). Given the Commission’s promotion of FMP, it could have tried to extend this provision, for example, by allowing such workers from the new member states access to the whole EU labour market. However, Commission documents do not indicate such an attempt, instead facilitating the emergence of a temporary functional border between old and new EU nationals. Given the Commission role in the accession negotiations, this silence is most likely best interpreted as tactical; a result of a calculation that at present the opportunity for such a challenge to traditional bordering practices is not at hand. It remains to be seen if such a window will open in the future and how the Commission will articulate its efforts to further the common EU area for the FMP.

All in all, the second reading of the Commission articulations on FMP indicates an ongoing struggle over the transformation of EU borders as a result of current integration efforts. The discussion shows a Commission ambition and ongoing attempts at promoting an EU-level migration regime, which transforms functional and identity borders. However, given the governance arrangement in this field, the Commission faces significant limitations from member states. Consequently, on the whole, the Commission has not advanced proposals that challenge fundamentally traditional bordering practices. Instead, changes tend to be more incremental, amending inclusion/exclusion dynamics gradually. Over time, this has led to the establishment of some EU-level undertakings that contribute to the emergence of a selective external functional Union border. This is the case because the EU has worked towards filtering the people it allows to enter and move in the Union. Simultaneously, internal EU functional and identity borders are recreated. These construct various categories of people in terms of their rights to free movement. On the whole, these borders come about as a result of the current governance arrangements of FMP and in many cases affirm existing national divisions within the EU.

SUMMARY

This chapter looked at the bordering transformations prompted by the undertakings in the area of FMP. Given the complexity and sensitivity of the issues involved in this field, its evolution and governance arrangements are very diverse. While with reference to EU nationals the supranational level has significant influence, its role is limited when it comes to free movement of TCNs. Consequently, many of the relevant Commission articulations contribute to the prolongation of this important distinction. Furthermore, there is an ongoing struggle between the Commission and the member states about the best way of governing these matters.

The examination of the Commission FMP discourse showed that, as in the other policy areas, it has strived to promote the establishment of a common EU space, thus contributing to de-bordering. Crucially, there are indications of this both with reference to Union nationals and TCNs. However, on the whole, this discourse has not advanced a fundamental challenge to traditional bordering practices when it comes to free movement of TCNs. Instead, the Commission has had to work towards a gradual establishment of its preferred solutions that have a long-term potential to encourage the emergence of post-modern borders. In doing so, the Commission has displayed entrepreneurial skills, successfully employing cultivated spillover.

An important side-effect of these efforts has also been the articulation of EU external borders for FMP. This trend has been especially evident since the beginning of the new millennium when the Commission started being more involved in the efforts of regulating migration to the EU. This has enabled it to advance a particular understanding of the EU 'Self' as well as who its 'Others' are, thus drawing identity borders. Furthermore, gradually functional external borders are also being established. At present, they do not pose a radical challenge to traditional borders and have selectivity as a key characteristic. The latter is enunciated through the establishment of various categories of TCNs with regards to their movement in the EU and the creation of a regime aimed at implementing the relevant provisions. Similarly to the selection occurring in the field of border controls, the EU welcomes well-off, educated TCNs. As the discussion showed, at present the Commission tends to play a supporting role in the creation of external EU functional borders, mediating and coordinating between the member states.

This contributes to the affirmation of existing national divisions within the EU, thus reconstructing internal borders. Crucially, this leads to the

establishment of functional obstacles to the free movement even of some categories of EU nationals. These are the less well off who rely on social assistance. This is an issue area also related to social policy. Thus, the next chapter looks in more detail at the EU arrangements in this field, probing the contribution of the Commission social policy discourse to border transformations.

NOTES

1. Prior to the official Commission proposal on this issue, it commissioned a report on the legal status of TCNs in the EU member states. On the basis of the report, its authors published an article. See Groenendijk and Guild (2001).
2. According to EUR-Lex, it was transmitted to the European Parliament and the Council in December 2002 but has not been agreed upon by them. See EUR-Lex (n.d.-c).
3. For more details, see European Commission Communication (2007d: Article 19, point 1). For good analysis of the legal shortcomings of this proposal for establishing this kind of free movement in practice, see Guild (2007: 5–7).

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Social Policy—Constructing European Identity

The discussion so far has examined in detail the border transformations that have occurred due to the EU's regime regulating the movement of people. These developments, however, have impacted on another crucial area with border-transforming repercussions: social insurance. It is part of social policy and played a crucial role in the establishment of the modern-era nation state. Therefore, an in-depth understanding of the transformation of EU borders and the Commission's contribution to this process needs to scrutinize the bordering practices associated with social policy and, more specifically, the issues around the provision of social insurance. This endeavour also builds on the long-held view that there is a unique European model of organizing social relations and is further supported by the social aims of the integration effort as stated in consecutive EU treaties, going back to the Treaty of Rome. These suggest that EU social systems will display certain characteristics, making it relatively easy to differentiate the societies that have them and those which do not. In turn, this implies that there should be a clear border between these two categories. Social issues and their repercussions for bordering practices are all the more pertinent in the post-2008 context. It witnessed the onset of the sovereign debt crisis in many member states, especially of the eurozone, the Union economic downturn and the associated protests across the EU against some of the measures taken for tackling the budget deficits and national debts.

Against this background this chapter focuses specifically on scrutinizing the key features of the borders articulated in the Commission social policy discourse and analysing what this means for their nature. Also, specific attention will be paid to the Commission's contribution to the border transformations prompted by social policy developments. To that end, the next section provides a background to the following discussion outlining the evolution and governance structure of EU social policy. Section two then conducts the first reading, demonstrating the key ways in which Commission articulations contribute to de-bordering. Section three engages with this discourse critically, showing how it constructs and reconstructs borders. The chapter concludes summarizing the key points.

THE EU SOCIAL DIMENSION—EVOLUTION AND GOVERNANCE

This section anchors the subsequent discussion by outlining the main developments in the evolution of EU social policy, its governing structure and the Commission's role in it. It highlights some of the key controversies and major arguments with a bearing on the following sections. Before this, however, it briefly points to the role the welfare state played in the onset of the nation state as the organizing unit of domestic and international politics.

Contemporary social policy encompasses a broad array of issues from social welfare to employment activation. Furthermore, as the subsequent discussion shows with reference to the EU, over time there have been important alterations in its goals and instruments. Nevertheless, one of its main elements has traditionally been social insurance. According to Ferrera, it is the historical core of social policy and comprises of compulsory public insurance schemes that constitute the main pillars of national welfare (2005b: 232).

Crucially, this welfare state played an important role in the creation of the modern nation state. Firstly, compulsory insurance schemes locked entire segments of the population in redistributive programmes (simultaneously keeping out those who do not qualify), while at the same time developing further and concentrating at the centre the state's administrative and fiscal resources. Ultimately, this led to greater uniformity within a state and ironed out territorial diversity in institutional structures and practices (Ferrera 2005a: 169–70). Thus, social insurance schemes contributed decisively to the bounding of territory, facilitating the establishment of territoriality as a key element of state sovereignty.

Secondly, the rights and duties conferred to citizens under social insurance schemes were crucial for the emergence and embedding of national identity. More specifically, these programmes pooled risks like old age, sickness or disability. The successful pulling off of such policies depended on and forged further the sense of solidarity between the citizens of a particular state (Ferrera 2005b: 226). It is possible only if the population shares an understanding of itself as ‘we’. As Mau puts it: ‘The emotional force of nationhood and the feelings of belonging and mutuality it engenders contribute greatly to the collectivization of social risks’ (2005: 208). In other words, it is the unifying feeling of national identity between citizens that enables the welfare state to provide communal goods and services, while allowing members to make a claim on societal resources.

Unsurprisingly, with the establishment of the welfare state, redistributive issues came to the fore, sharpening societal cleavages, above all along class divisions. In turn, this shaped the development of citizenship in important ways, impacting the institutions and procedures of the emerging democratic process in Europe. That is why, according to Marshall, the extension of social rights was as important for the development of social citizenship as that of civil and political rights (cited in Ferrera 2005b: 227). These struggles and the settlements reached helped strengthen the legitimacy of the state and its institutions, as for many it was the bearer and guarantor of the solidarity (Mau 2005: 208), underpinning the welfare state.

All in all, the onset of the welfare state in the late nineteenth and early twentieth centuries contributed greatly to the state’s ability to act as a container, reinforcing the principle of territoriality and establishing highly visible and difficult-to-cross functional and identity borders. In light of this, changes to the regime for movement of people, discussed in the previous chapters, are to be expected to have implications for the national welfare states and by extension on social policy. This puts the issue of EU social policy provisions in the limelight, as it can highlight important aspects of the process of borders transformation. Taking this matter on, the rest of the section outlines the key points in the evolution and governance of EU social policy.

Indeed, EU treaties articulate social goals for the integration project, indicating a concern with these matters and demonstrating their importance for the endeavour. For example, the Preamble of the Treaty of Rome affirms the objective of improving the living and working conditions of the populations of the member states and expresses a resolution to ensure

their social progress. More recently, Article 9 of the ToL, refers to the promotion of high levels of employment, the guarantee of adequate social protection and the fight against social exclusion. Such goals constitute the so-called ‘social dimension’ of European integration. According to Lange, it consists of: ‘all those policies, or proposed policies, for the EC and its member states that provide or would provide rights, opportunities, benefits, or protections to actual, potential, or former participants in the labour market’ (1992: 229–30). Nevertheless, the EU’s record in the field of social policy is uneven and at times controversial.

From the outset, the key policy goals have been social progress within a competitive social market economy; economic, social and territorial cohesion; and solidarity among member states (based on Andor 2013c: 9). The key social provisions of the Treaty of Rome were focused on labour market mobility and over the next few decades triggered successive ECJ decisions that gradually changed the EU regime for movement of people for work purposes. As discussed in Chap. 3, this contributed to the transformation of functional borders. The other significant social policy development in the early years of integration, conducive to addressing the issue of territorial cohesion, was the establishment of the European Regional Development Fund. However, on the whole, not only were the achievements in the area modest (at best), but also the member states remained the most important players in it. Consequently, as Ross states, any Commission role was rendered very difficult (1995: 359).

The SEA provisions allowed for some important changes, predominantly in areas affected by market liberalization. The alterations to the social policy field emanated from their relevance for addressing economic objectives, which is in tune with functional spillover (as stated for example by George 1991: 216). Overall, however, continuing with the trend from the previous period, national governments were reluctant to broaden the Community role in the social field. The important exception was the provision for QMV in the CoM on matters concerning the health and safety of workers. This enabled the Commission to play a more prominent role in regulating the minimum standards applicable in the member states on these issues. Crucially, as Cram has argued, this allowed the Commission to push for greater Community role in social policy and established regulation as one of the key tools in its box for attaining this expansion (1993).

The new Commission President, Jacques Delors, however, had a more ambitious social policy agenda and, as demonstrated by Ross, his two terms left a significant legacy. Firstly, through the reform of the

Structural Funds, substantial EU resources (especially for the budgets of some member states) were devoted to regional redistribution aiming to level out the Union's economic and social cohesion. Secondly, in 1989, the Social Charter providing for Community legislation (a 'hard' policy tool) on matters like worker information, participation, consultation or equal treatment was adopted. Thirdly, efforts towards establishment of EU-level social dialogue were made, resulting in launching the so-called Val Duchesse process (Ross 1995 for more details).

These controversial measures were in tune with the ideas of the so-called social protectionists, who favoured greater scope for Community responsibilities, which would entail harmonization of national standards (Lange 1992: 231). This approach, however, was not particularly successful overall. As Ross states, the hard regulatory legislation actually produced was modest—unsurprising given the limited Community mandate and the legacies in the social policy field (1995: 375). Developments in the early 1990s turned the tide further in favour of the supporters of a minimalist, decentralized, hands-off approach, advocating limiting the Community-level legislation and giving more space to member states (Lange 1992: 230).

In turn, this marked an important shift in the social dimension. It moved the emphasis away from work and solidarity, which used to be the key concerns of policy undertakings, to a broader conception of social policy interested in issues beyond labour law and the defence of the rights of those in employment (Santer 1996: 2; Flynn 1995b: 2). Instead, the dominant view became that social policy: 'must also look to the problems of the unemployed, the socially excluded, the disabled and other disadvantaged groups in society, and the growing problems faced by our welfare states' (Flynn 1995b: 2).

The new paradigm highlights the interrelationship between economic and social policies and conceives of them as the two parts of a whole. It signals a change in EU social policy from a more social protectionist approach to a more decentralized one. Discursively, this is articulated by the advancement of a new phrase encapsulating the ambitions of the social dimension, the European Social Model (ESM), which replaces the earlier one, the European model of society (EMoS) (Delors and Clisthene 1992: 157–8; Santer 1995: 1, 1996: 2 exemplify the use of these phrases by Commission officials). The early Commission documents that encapsulate this new thinking are the Paper on Growth, Competitiveness and Employment (European Commission Communication 1993c), the

Green Paper on Social Policy (European Commission Communication 1993b) and the White Paper on Social Policy (European Commission Communication 1994). In this atmosphere of structural changes and fundamental differences were negotiated the new terms of European integration, the Treaty of Maastricht. According to Ferrera: ‘Delors’ ambitions regarding the social dimension were basically defeated by the 1992 constitutional revision’, despite his previous social policy achievements and formidable overall standing within the politics of European integration (2005a: 117).

Although the Maastricht Treaty incorporated into primary legislation the provisions of the Social Charter and extended QMV to areas like the information and consultation of workers, this was done in the so-called Social Chapter, a Social Policy Protocol annexed to the Treaty. It granted an opt-out from this legislation to the UK, which was categorically opposed to accepting such social policy measures. Thus, after the Treaty of Maastricht, two social policy provisions operated in the EU. The Social Chapter covered all member states minus the UK, while the provisions of the SEA applied to all member states.

This division ended in 1997 after the new British government adopted the Social Chapter. The other important innovation introduced by the Treaty of Amsterdam was the adoption of a new tool for achieving social policy goals, the so-called OMC. It was first applied under the European Employment Strategy and has subsequently been used in the attainment of social policy goals, like social inclusion under the Social Policy Agenda. It involves fixing guidelines at Union level and agreeing upon timetables for achieving short-, medium- and long-term goals; establishing qualitative and quantitative indicators and benchmarks; translating the European guidelines into national and regional policies; and periodic monitoring, evaluation and peer review organized as a mutual learning process (for studies on the OMC, cf. Mosher and Trubek 2003; Daly 2006; Adnett 2001; Heidenreich and Bischoff 2008). Although EU officials, including Commission staff, have praised it (cf. Diamantopoulou 2001a: 4), it remains a ‘soft’ policy tool under which the Commission does not have enforcement prerogatives.

The most recent amendments under the ToL provide for extending QMV to the matter of social security provision for migrant workers and include the Charter for Fundamental Rights of the Union into the treaty framework. This strengthening of EU social policy competence is balanced, however, by new safeguard procedures that could strengthen

the member states' control over their social security systems in the future (based on Falkner 2010: 276–81; for further details, see also Dinan 2005, esp. ch. 14; Falkner 2003; Hix and Høyland 2011: 206–9; or Nugent 2010: 340–3). Thus, overall, this treaty does not break with the established pattern in social policy integration.

This discussion of the key developments in the evolution of EU social policy has highlighted the major controversies it has spawned. They revolve firstly around disagreements about the appropriate shape and form of EU social policy with some in favour of greater EU-level harmonization, while others advocate a more decentralized settlement that limits supranational involvement. As we have seen, since the early 1990s, the latter has been the dominant view. Secondly, and interrelatedly, there has been disagreement over the role of the Commission in this policy area. On the whole, its role in the governance of EU social policy has been limited. The Commission had important successes, especially in the years following the adoption of the SEA when it pursued deeper integration in the field through supranational legal harmonization of social provisions. Also, regulation became an important tool at the Commission's disposal in areas like workers' health and safety. Nevertheless, on the whole, member states have guarded their sovereignty on social policy issues, significantly limiting the Commission's ability to propose measures developing the input at the supranational level. The manifestation of this in terms of policy tools has been the OMC, which precludes the adoption of binding measures on the member states.

As a result of the distinctive evolution and substance of EU social policy cooperation, compared to states, the Union displays significant absences in this field. Arguably, chief amongst them is its inability to provide social insurance to its citizens directly. As Ferrera puts it: 'The European Union certainly does not have (and perhaps will never have) its own social protection budget, fed by autonomous taxing powers, through which direct interpersonal flows of redistributions can be financed' (2005b: 237). This is a crucial issue, given that as shown above, social transfers are the core of social policy and have contributed decisively to the establishment of the modern order. Therefore, the social policy situation in the EU also implies that the Commission's contribution to borders transformation through articulations on this matter is likely to be limited.

Nevertheless, as Leibfried (2015) and Ferrera (2005a,b) have shown, the EU has had important repercussions on the national welfare state, albeit an indirect one. More specifically, such studies highlight how the

pursuit of economic goals under the single market banner have spilled over into the national domain of the welfare state, increasingly constraining individual governments' social policy options. Decisions of the ECJ have played a very prominent role in this process. These developments have resulted in significant changes in the spatial architecture of social citizenship for EU nationals, for example, altering the particular social protection schemes available or the categories of people benefiting from certain provisions.

This clearly demonstrates the Union's border-transforming potential, even if it does not come about as a result of direct social policy undertakings of the supranational institutions, like the Commission. Instead, as Scharpf has argued convincingly, such transformations are due to a structural asymmetry in the design of the European integration process, skewing it to privilege economic cooperation at the expense of social policy provisions (2002, 2010). Arguably, the outcome of these developments is the gradual erosion of national welfare states through the imposition of important limitations 'to the social sovereignty of domestic welfare states' (Ferrera 2005b: 231).

So, overall, integration impacts social policy, a development with a border-transforming potential. Simultaneously, as the above points indicate, this tends to come about through indirect erosion of national welfare provisions, accompanied by a lack of development of such provisions at EU level. Furthermore, the Commission is likely to be restricted in its possible contributions to EU social policy, making future Union provisions also unlikely. This makes an examination of the bordering repercussions of the Commission social policy discourse an intriguing endeavour. The rest of the chapter undertakes it, starting with a reconstruction of the discourse under the first reading.

DE-BORDERING—CREATING A COMMON EU SOCIAL SPACE

Despite what one might expect in light of the above discussion, in continuation of the trend noted in the previous chapters, at face value the Commission social policy discourse promotes the emergence of a common EU space, thus contributing to de-bordering. As elaborated on below, the main ways in which this is articulated is through downplaying the differences between the social orders of the Union's members and using inclusive words, such as the pronouns 'our', 'ours' and 'we'. In distinction to the policies discussed previously, the promotion of mobility or freedom

does not feature prominently in the Commission's social policy articulations. Certain enunciations on the Eastern enlargement process and on the measures undertaken to tackle the post-2008 EU economic problems suggest the importance attached to social policy matters further. This section presents all these points in detail after firstly briefly sketching out the main tenets of Commission thinking on this policy area.

As pointed out above, one of the key aims of the integration project has been the establishment of a social market economy. A former European Commissioner, responsible for employment, social affairs and inclusion, highlights the following as the main features of a social market economy: an economy that harnesses competition to keep prices down and generate growth and innovation; that has rules to eliminate distortion; that has a social dimension; and that is concerned with sustainability (Andor 2013c: 3). This bestows upon the social dimension a central role in the integration endeavour. For example, according to the Commission 1991 Programme: 'the social dimension ... must move ahead at the same time as the economic dimension' (European Commission 1991: 1). A more recent enunciation states that the common market programme: 'was a balancing act between the market and the social dimension' (Andor 2011c: 3). Arguably, these articulate equal weight of the economic and the social dimension in the integration project.

This understanding of the role and significance of the social dimension is underpinned by the above-mentioned belief in the existence of a European model for organizing societal relations. Although, as explained above, the phrase denoting this has changed over time from EMoS to ESM, arguably both share a belief in the necessity of extensive social protection systems, strong policies to promote social cohesion, well-developed health and education systems or the importance of the social dialogue.¹ This is because, according to Delors in the EU: 'people feel that a society should not be allowed to crush the individual; but individuality should not be taken so far as to undermine society' (cited in European Commission Press Release 1986: 2). So, how has the Commission contributed to ensuring the preservation and implementation of these features, core to EU societies and the integration process?

To address this question, key provisions of several Commission Communications are outlined. Inevitably, given the vast amount of relevant documentation, they do not enable a detailed presentation of Commission articulations on all possible social policy issues. Nevertheless, they allow summarizing succinctly the main goals and areas under EU

action in the social policy field since the late 1990s. During this time two strategies have dominated in articulating EU thinking in the economic and social areas, the Lisbon Agenda and Europe 2020. Within this framework, the communications discussed here outline well the Commission thinking on social policy matters and indicate the areas of major undertakings. Therefore, arguably, these communications will illustrate sufficiently the major Commission contributions to EU social policy, enabling subsequently a detailed interpretation of the bordering transformations they promote.

One of these communications was an integral part of achieving the strategic aims of the Lisbon agenda, making the Union: *‘the most competitive and dynamic knowledge-based economy in the world, capable of sustainable economic growth with more and better jobs and greater social cohesion’* by 2010 (Presidency Conclusions 2000: 1, original emphasis). To that end, the Commission advocated positive and dynamic interaction between economic, employment and social policy (European Commission Communication 2000: 2). More specifically, to achieve this, according to the Commission, it was necessary to extend the notion, already familiar in the business world, of quality to the whole of the economy and society as this would help improve the interrelationship between economic and social policies. A key message of this approach is that growth is not an end in itself but merely a means to achieving a better standard of living for all. Furthermore, social policy underpins economic policy and employment and has a social value as well as an economic one. As a result, the attainment of a thriving economy was foreseen through the creation of more and better jobs and of an inclusive society. The specific social policy undertakings deemed necessary for the attainment of these objectives were promotion of strong partnerships; establishment of dialogue and facilitation of participation at all levels; access to good services and care; and adapting social protection to the economic and societal changes (European Commission Communication 2000: 13). A number of specific actions are then outlined showing how each of these will be pursued (European Commission Communication 2000: 15–24 for more details). Among the key tools to be used, the Commission lists the OMC, legislation, the social dialogue and the financial resources available under the Structural Funds, particularly the European Social Fund (European Commission Communication 2000: 14).

Even before the onset of the economic downturn precipitated by the 2008 financial crisis, however, in the Commission’s own words, the record

in attaining the Lisbon strategy goals ‘has at best been mixed’ (European Commission Communication 2005c: 3). One of the main responses in the social policy field was a communication adopted just before the start of the financial crisis in earnest in 2008. It aimed at reinvigorating the EU’s social policy actions, enabling it to keep pace with the changing realities (European Commission Communication 2008: 2). The specific provisions of this communication (European Commission Communication 2008) and the social policy goals articulated by the Commission in its Europe 2020 communication show that, overall, the key social policy ideas remained the same. In concurrence with the established thinking, the Commission 2020 Communication outlines three main priorities in the economic, social and environmental sustainability fields. It makes clear that they are mutually reinforcing, offering a vision for the Europe’s social market economy of the twenty-first century (European Commission Communication 2010a: 8). The overall social policy goals within this framework are to deliver high employment and social and territorial cohesion through investing in skills; fighting poverty; modernizing social markets, training and social protection; and ensuring access and opportunities for all throughout the lifecycle. The specific measures foreseen for attaining these aims revolve around steps for strengthening and modernizing EU employment, education and training policies, and its social protection systems; increasing labour participation; and reducing structural unemployment. A key principle underpinning these undertakings is ‘flexicurity’ (European Commission Communication 2008: 16).

This concept emerged in the wake of the early 1990s shift in social policy thinking. It denotes the understanding that robust and active labour market policies, lifelong learning investment and modern social security systems can ensure security of employment and income, even if, due to the rapidly evolving economic context, contractual arrangements become more flexible and job transitions more frequent (Andor 2011a: 4). According to the Commission, flexicurity is key for enabling people to acquire new skills and to adapt to the shifting conditions and potential need for career changes (European Commission Communication 2010a: 16). The innovation under the Europe 2020 strategy was the enunciation of the so-called Flagship Initiatives for its three priority areas. For inclusive growth, these are the Agenda for New Skills and Jobs and the European Platform against Poverty. They outline the key goals and steps to be undertaken towards the attainment of inclusive growth at both EU and national levels (European Commission Communication 2010a: 16–18 for

more details). So, on the whole, there has been stability and continuity in the Commission social policy thinking, even if meeting the relevant EU strategic goals has faced significant difficulties. With these key points in mind, the attention can now turn to analysing the border transformations that the Commission's social policy articulations promote. This builds on a broader number of documents that illuminate further the Commission's views on the social dimension.

Overall, the Commission articulations promote the idea that a common EU social space exists, thus contributing to de-bordering. This is enunciated in three main ways. Firstly, this is done through downplaying the differences between the social orders of the Union's member states. Despite a growing body of academic literature pointing to the existence of distinctive social models between the EU member states (cf. Arts and Gelissen 2002; Ebbinghaus 1999), the Commission's social dimension articulations with their references to a *European* model imply that whatever the differences between the member states' models, the commonalities between them are more important. For example, a former Commissioner responsible for employment and social affairs states: 'Yes, there is a tremendous diversity within the spectrum of those systems. In the Scandinavian Countries, social protection is a right enjoyed equally by all citizens. In Germany, Austria, Belgium, Holland and Luxembourg, benefits are mostly earnings-related... But what I am saying is that one thing stands out: the universal nature and the scope of the social support that European Union governments offer their citizens' (Flynn 1996a: 3). Similarly, according to the former Commission President Santer: 'over and above our historical and cultural diversity, we do have—from Portugal in the south to Finland in the north—certain shared ways of organizing our societies' (1996: 2). Such articulations contribute to the emergence of a common EU social space as by putting the emphasis on the characteristics shared by the member states, they undermine the existing borders between them.

More specifically, this is conveyed through the reference to shared values upon which the Union is founded. It is these common values, cherished by all member states² that enable achieving unity in diversity. As the former Commission President Prodi declares: 'European integration has *always* been about people of diverse cultures and languages coming together on the basis of shared values, and acquiring a shared sense of identity' (1999: 2, original emphasis). In the social field: 'the values of society include the idea of mutual solidarity and responsibility, and the

need for a safety-net to catch the less fortunate member of society, be it in terms of income support, or of health care' (Brittan 1993: 3–4).

De-bordering is also articulated through the claim that in the social field, as well as in the other fields related to the construction of the internal market, the Union is facing challenges, which 'are unlikely to be met by any single European State acting alone' (European Commission Communication 1993b: 33). For the Commission, this creates common objectives, which warrant the efforts to overcome any existing differences and act together. For example, in 1995 Commissioner Flynn argued: 'Europe has tremendous diversity in its systems of social protection, industrial relations and rights, care, education, and training. But the objectives are essentially common. And *European social policy has tended, rightly, to emphasize the commonality or convergence of those objectives*. That isn't sterile harmonization. It's building on our common interests and strengthening the social dimension of the Union' (1995a: 2, emphasis added). This is why the Commission discourse continuously maintains that: 'we need to concentrate on what unites us rather than on what divides us' (Flynn 1997c: 6).

Secondly the existence of a common EU social space is enunciated in Commission discourse through the usage of inclusive words, such as the pronouns 'our', 'ours' or 'we', as well as through the labelling of some of the envisaged measures in the social policy field. A good illustration of this is the Preamble of the White Paper on Growth, Competitiveness and Employment, which reads: 'This major challenge confronts *us all*. That is why we are arguing, first and foremost, the need to press on with building a unified Europe which will increase *our* strength through cooperation and through the benefits of a large area without frontiers of any kind' (European Commission Communication 1993c, emphasis added). Various Commission officials in their speeches also use these inclusive pronouns (cf. Almunia 2007: 6; Diamantopoulou 2002: 2–4; European Commission Press Release 1986: 2). Such articulations facilitate the emergence of feelings of commonality and belonging within the EU population, a 'we-feeling'. This trend is further confirmed by labelling EU-level undertakings as 'common policy' or 'joint programme'. Crucially, the Commission discourse not only emphasizes inclusiveness, but also points out the distinctive nature of the integration project as an endeavour undertaken by equal partners that participate freely, on their own accord. In the words of the former Commissioner for Employment and Social Affairs Diamantopoulou: 'These common policies, again, are not a matter of one

or more countries dictating to others. They are a matter of sovereign states deciding to pursue common objectives for common benefit' (2000b: 3).

In distinction to the policies discussed in the previous chapters, the promotion of mobility or freedom does not feature prominently in the Commission's social policy articulations. When such references are made, in concurrence with the above-mentioned interrelation between economic and social matters, the premise of such articulations goes back to the view that in the single market: 'decent standards transcend borders alongside capital, goods, services and people' (Flynn 1996b: 2). Increasing EU visibility on employment and social issues in this way is sought in order to: 'improve coordination of economic, employment and social policies, ensuring that all EU citizens share in the fruits of growth [;] help to drive better conditions for business and our economies generally and ... change people's perception of the EU for the better' (Diamantopoulou 2003: 3).

Thirdly, the emergence of a common EU social space is further facilitated by Commission articulations that demonstrate the importance of the social dimension within the overall integration process. In the period under investigation here, this is most evident in statements made on the measures undertaken to tackle the post-2008 EU economic problems and on the Eastern enlargement process. For example, in the context of the Eastern enlargement negotiations, Commissioner Diamantopoulou states that: 'The social model is central to the Union's continued economic progress and to enlargement' (2001d: 3) as 'social policy and the social acquis are not an optional extra—they are a fundamental part of the EU's legislative base and they are fundamental to building a comprehensive and inclusive knowledge economy' (Diamantopoulou 2001c: 6). Hence: 'the social dimension is a basic element of the process of enlargement, not a casualty of the process' (Diamantopoulou 2000b: 4).

This implies that during the enlargement process, the East European candidate countries had to make the same efforts in the social policy field as in the sphere of economy or democracy in order to become full EU members. Furthermore, presumably at the time of Union accession, the convergence with the old member states on the social issues should be at the same level as that of the other two areas enlisted above. To achieve this, during the enlargement process, some of the Commission efforts were focused on promoting reform of education, training and tax benefits and strengthening the employment services, social partnerships and social dialogue in the applicant countries (as cited in Diamantopoulou 2001c: 4–5). Hence, the overall result of the enlargement process in the social

sphere is expected to be the gradual inclusion of the applicant countries into the ESM, which should more or less be accomplished before full membership becomes a fact. This means that the new member states will become part of the organization of social life in the EU. Thus, the border that used to separate Western and Eastern European societies will no longer be relevant, contributing to de-bordering in the particular area of the social dimension.

In a similar vein, Commission articulations on the 2008 financial crisis convey a commitment to the EU's social dimension and a concern with ensuring the proper balance between economic and social issues in the policy processes. For example, in the immediate aftermath of the 2008 financial crash, Commission articulations maintain that this crisis has highlighted the strength of the ESM and of the EU's joint approach to tackling its social impact by limiting its negative effects on the EU population (European Commission Press Release 2010g: 1; Andor 2010a: 3). This unequivocally confirms the importance of the social dimension to the integration endeavour at a time when there was likelihood for weakening the political appetite for social measures. Despite this possibility, the Commission discourse demonstrates that it sees the reinforcement of social policy measures, like the strong role for the social partners and a robust social dialogue, as having a crucial part to play in resolving the EU's economic difficulties (cf. Andor 2010b: 4).

Perhaps even more importantly, during the course of the crisis, after the onset of the sovereign debt crisis, the Commission articulations acknowledge the structural problems created by the lack of a proper economic pillar of the Economic and Monetary Union (EMU), which necessitates restructuring the EU's economic governance (Andor 2011b: 3). Furthermore, crucially, they also affirm that: 'it is *equally* a necessity to reinforce social cohesion in the EU' (Andor 2011b: 3, emphasis added). This is because according to the Commission: 'There is a link between the functioning of the monetary union, and the sustainability of the European social model' (Andor 2011e: 3). This clearly articulates the social dimension as a critical part of the integration process. It is based on the view that the EU should develop and implement: 'governance approaches that can simultaneously deliver competitiveness, growth and social cohesion' (Andor 2011e: 3).

This aspiration was made more concrete a couple of years later, when the Commission adopted a Communication outlining the framework for steering and monitoring the member states' economic and, crucially,

social reforms under the European Semester. More specifically, the document outlines particular measures aiming: to increase the capacity to monitor EMU employment and social developments; to mobilize EU action and funding to tackle effectively and sustainably unemployment and social distress; to combine the steps undertaken on the economic governance front with more solidarity and financial support; to reduce existing barriers to labour mobility in the EU; and to strengthen the role of the social dialogue in developing EU and national strategies, through the appropriate involvement of the social partners (European Commission Communication 2013a).

All these articulations not only demonstrate a clear concern with the social dimension, enunciating it as central to the integration endeavour, but also advocate the establishment of a common social space in the EU. In turn, this contributes to the transformation of borders through undermining the previous divisions between the member states. More specifically, it was shown that these Commission efforts rely above all on the idea that there are underlying commonalities between the EU peoples, a trait the Commission discourse affirms and helps embed further. This facilitates strengthening the EU citizens' feeling of belonging to a common endeavour, thus engendering solidarity between them. In turn, this promotes the emergence of a 'we-feeling' within the EU population. Thus, the Commission discourse on the social dimension is conducive to the transformation of identity borders.

Given the different circumstances in which these post-modern identity borders are emerging (in comparison to the ones of the modern nation state), their nature is distinctive in two key, interrelated ways. Firstly, compared to national identity borders, EU ones are less salient. As a result, secondly, they are more fluid, being less anchored territorially. These characteristics are a consequence of the EU's social dimension. As discussed above, it lacks key features of national welfare policies and, on the whole, the role of the supranational institutions like the Commission is circumscribed. In practice, this means that while the Commission can articulate the existence of a European identity, it is limited in its ability to undertake specific measures that impress it firmly into the individual psyche. For example, none of the measures articulated under the Commission social policy discourse discussed above are likely to have the far-reaching identity-creation effects of the introduction of the national welfare protection policies at the turn of the twentieth century. Consequently, the EU identity and the borders demarcating it are shallower and, on the

whole, their existence is more precarious. This prompts their further reinforcement through articulations that construct borders indirectly. These are revealed through a critical engagement with the discourse, made possible by the second reading of the Commission discourse on the social dimension.

SECOND READING—CONSTRUCTING
AND RECONSTRUCTING BORDERS
THROUGH THE COMMISSION DISCOURSE ON THE SOCIAL
DIMENSION

*The ‘Self’ and the ‘Other’ in the Commission Social Dimension
Discourse—Constructing EU’s External Borders*

More specifically, the identity constructed by this discourse is reinforced by articulations that demarcate who belongs to the ESM and that clarify their distinctive features. In practice, this draws an identity border between the Europeans (insiders) and the non-Europeans (outsiders). Under the classification outlined in Chap. 1, this is an external EU border. It transforms traditional identity borders as it aims to transcend national identities, demarcating a division on a different scale. As we saw, some of the distinctive characteristics of the nature of these borders are their greater shallowness and precariousness. Discourse theory allows probing the nature of these borders further by grasping more fully the meaning of the EU identity articulated under the Commission social dimension discourse. To that end, this section examines in detail the Commission enunciations of the ‘Self’ and the ‘Other’. This is the binary opposition, which discourse theorists’ argue enables the construction of knowledge, such as what constitutes the substance and limits of being European. The Commission understanding of the ‘Other’ is revealed by analysing which issues its discourse articulates as a threat and which entities as the ESM’s major rivals. In turn, this exposes the understanding of the ‘Self’ in greater detail.

As the world’s biggest economic bloc and due to its economic successes (relatively speaking), one of the strongest and most persistent themes in the Commission social dimension discourse is that the Union is an economic leader. This, therefore, is a central point in the Commission understanding of the EU ‘Self’. The following articulations illustrate this well.

Firstly, the Green Paper on Social Policy states: ‘The Community is one of the most prosperous areas of the world. While it contains only 7 % of the world’s working age population, it produces some 30 % of world’s GDP and 45 % of world trade in manufactured goods’ (European Commission Communication 1993b: 13). Consequently, secondly, Commissioner Flynn declares: ‘We are the largest, most productive entity in the world’ (1997a: 1). More recently, thirdly, the same sentiment is expressed by maintaining that: ‘The European Union as a whole has the biggest economy in the world with 26 % of global GDP, followed by the US with 23 % and China with 9 %’ (Barroso 2013: 9). These self-perceptions inform the specific threats and the key rivals to the ESM, the two main ‘Others’ articulated under the Commission social dimension discourse, which are analysed in turn in greater detail below.

Starting with the ‘Othering’ articulated under the banner of danger, the major long-term challenges to the Union singled out by the Commission are globalization, pressures on resources and an ageing population (European Commission Communication 2010a: 3). For example, globalization is an ‘Other’ as it threatens the EU’s competitiveness (cf. Špidla 2006a: 2 or Špidla 2007: 2) and therefore its potential for economic growth. Consequently, the Commission advocates common actions as the best strategy for addressing the Union’s shortcomings and putting it back on the ‘upward path of prosperity’ (European Commission Communication 2010a: 6). These articulations not only lead to de-bordering within the EU but also contribute to establishing it as a discrete entity in its own right. A key repercussion from this is the emergence of the external Union border. More specifically, the stipulated goal is improving productivity, through Research and Development (R&D), strides in management skills and investment in skills training (Flynn 1993a: 2). Yet, nearly two decades later, the Commission acknowledges widening of the productivity gap between the EU and its key economic partners (European Commission Communication 2010a: 5). This suggests that for the time being, the first major ‘Other’ articulated under the Commission social dimension discourse has not been adequately dealt with.

The second major ‘Other’ emerging from this discourse is arrived at by considering the actors the EU’s performance is compared with. Given the EU’s ‘Self’-perception, unsurprisingly, these tend to be other leading economies. Crucially, these vary from low-wage economies, like the Chinese, Indian or Asia-Pacific ones, to the advanced economies of the USA or Japan as well as from the centralized Soviet economy to the

neo-liberal American one. There are inevitably differences in the emphases of the articulations, which illuminate further different aspects of the Commission's understanding of the 'Self'.

More specifically, the low wage economies tend to be seen as representing a significant challenge to the EU due to competitiveness attained through lower social protection standards and labour cost. Former Commissioner Flynn likens them to the situation in the nineteenth century in a statement that indicates clearly that the EU would not try to follow suit (1993a: 2 and 1995a: 5). Instead, as pointed out above, maintaining productivity levels to ensure EU's competitiveness is sought through measures like R&D or skills training. This articulates the 'Self' as innovative, possessing know-how or having an educated workforce; qualities, which the low wage 'Other' lacks. It is only more recently that some Commission articulations move towards representing the newly-emerging economies in more equal terms, acknowledging the huge strides forward in education and R&D made by the Indians or the Chinese (Mendelson 2005: 3 or European Commission Communication 2010a: 5–6).

Nevertheless, on the whole, arguably the Commission discourse tends to articulate the emerging economies as inferior. This is indicated by the fact that throughout the period, especially in its earlier decades, EU macroeconomic performance is compared to that of the advanced US and Japanese economies, not to the low-wage ones (cf. European Commission 1992: 13; European Commission Communication 1993b: 29–30, 1993c; Diamantopoulou 2001e: 2; Almunia 2007: 4). In 1986, Delors acknowledged that EU's economic difficulties were: 'constantly being compared with the much more successful performance of the United States and Japan over recent years' (European Commission Press Release 1986: 1). Continuing with this trend, the Europe 2020 strategy compares the Union's macroeconomic data with the same two economic giants (European Commission Communication 2010a: 5). Such comparisons articulate the three players as being on par. Despite that, other Commission enunciations reaffirm ESM's superiority. For example, former Commissioner Flynn states: 'Europe certainly has a lot to learn from the United States and Japan ... but the truth is that *there is no model there to follow*' (1994a: 3, emphasis added). This is because their socio-economic systems are seen as having important disadvantages, which discourages the EU from emulating them despite their better overall macroeconomic performance. The Commission articulations on the situation in the neo-liberal USA provide further details on these disadvantages.

Firstly, this is the great social cost paid by significant parts of the population (Flynn 1995a: 5 for more details). Secondly, although living standards in the USA are higher than even in the richest EU member states, this is achieved not through greater American efficiency or productivity but simply through longer working hours and most importantly through a higher proportion of the working age population being in work in the USA (Diamantopoulou 2001e: 3). Lastly, although the USA created more jobs in the 1990s, this did not tackle the issue of the so-called ‘working poor’³ and the resulting social exclusion (Diamantopoulou 2001f: 3). Consequently, in the USA there are: ‘Extremely wide income disparities’ (Diamantopoulou 2001f: 3), a situation obstructing social cohesion (see also Flynn 1994b: 3), a key aim of the social dimension.

Thus, the Commission articulates the EU ‘Self’ as rejecting competitiveness that can: ‘situate economic health in a social wasteland’ (Flynn 1997a: 3) and refusing ‘the narrow, selfish view of social policy’ (Flynn 1997a: 3). This reaffirms the more collectivist blueprint for the EU society (Prodi 1999: 3) with fewer disparities in life opportunities (cf. Flynn 1996c: 3). Despite this, before the fall of the Berlin Wall, the Commission aimed to steer away from the excessive paternalism of the Soviet socio-economic model, indicating an overall goal of striking a balance and maintaining a unique course for the Union (Flynn 1997a: 1, 1998: 1).

Overall, these Commission articulations construct a unique EU identity, creating a distinctive external border that demarcates insiders from outsiders. These borders and the identity contained within them hinge on the values and ideas of the EU social dimension. Traditional national identities also rely on the values and ideas underpinning a particular socio-economic model. What distinguishes the EU’s identity, however, is the lack of deep-seated policies and tools controlled at the Union level that facilitate embedding this identity further into the lives of ordinary citizens. This weakens it, making it potentially more prone to changes. Consequently, the post-modern EU external identity borders are suppler in nature compared to traditional identity borders. Consequently, a potential positive is that they are likely to be more open and adaptable, which can be desirable in the fast-moving world of today. This potential strength, however, is arguably balanced out by the difficulties such borders are likely to have in meeting the deeply ingrained human need to have a firm view of who they are. In turn, this could be conducive to instability, a feature of life that is unlikely to be welcomed.

Furthermore, the discussion showed that a crucial way for engendering the existence of a European identity and the borders accompanying it has been the affirmation of the ESM's superiority (also emphasized in Jepsen and Pascual 2005: 233). This self-assuredness has only been toned down during the sovereign debt crisis, for example, by acknowledging the structural weaknesses created by the EMU's design. Nevertheless, the Commission discourse clearly demonstrates that the social dimension is part of the solution of this crisis and therefore advocates: 'reinforcement of our social model' (Andor 2012: 6). However, the attainment of the consolidated EU social space, demarcated by clear external borders and characterized by a unique European identity such articulations contribute to, is undermined by certain inconsistencies in the Commission discourse. As the next section discusses in detail, they reconstruct identity borders in the EU.

*Reconstructing EU Identity Borders—Inconsistencies
in the Commission Social Dimension Discourse*

There are two key inconsistencies in the Commission social dimension discourse. Firstly, these are the articulations on the UK enunciating it as an 'internal Other' for the EU. Secondly, this is the privileging of economic considerations over social policy ones in the implementation in practice of policies, like the Eastern enlargement or the measures taken to tackle the sovereign debt crisis. Both of these obstruct the actual creation of the common European social space, articulated by the Commission under the first reading of its documents. More specifically, such enunciations undermine the validity of the claims that the social dimension is a central part of the integration process and that there is an ESM to which all member states belong. This weakens the already fragile European identity, questioning the very existence of the external border discussed above and contributing either to the confirmation of established national identity borders (UK) or to the emergence of factions within the EU (i.e. between old and new members). This transforms identity borders by multiplying them further, often in ways significantly different from their nature under the modern order. More specifically, such inconsistencies further the proliferation of diverse identities that have only very weak anchors in specific policies that imbed them into people's psyches. At the same time, the prolongation of the existence of national identity borders suggest that in the post-modern order (at least for the time being), transforming borders co-habit with

traditional ones, leading to a complex picture when it comes to the nature of these borders. Below, these points are elaborated on, starting with the Commission articulation of the UK as an ‘internal Other’.

This is enunciated by linking the UK with the USA and ‘deregulators’⁴, which both emerge from the Commission social policy discourse as ‘Others’. For example, at times, the UK’s performance on indicators like income and literacy inequality or the number of hours worked is compared to those of the USA (Diamantopoulou 2001c: 3–4). Also, the overall strengths and weaknesses of UK’s employment and social policies are reminiscent of the American ones (as can be concluded from Diamantopoulou 2000a: 4–5). Similarly, the Commission documents enunciate deregulation as counterproductive (cf. Diamantopoulou 2001b: 2; Flynn 1997b: 4), while simultaneously acknowledging the UK’s anti-regulatory tradition, especially under Thatcher’s government (Flynn 1996d: 1). These articulations contradict the Commission claim, discussed above, that despite their differences, EU member states’ social models share underlying similarity in their overall commitment to the values underpinning the ESM. This creates an ambiguity about the UK’s belonging to the ESM, drawing a wedge in the common European social space the Commission aims to establish. This is conducive to the reconstruction of identity borders in the EU as the UK’s distinctiveness in comparison to the rest of the Union is reaffirmed. In turn, this prompts articulations aimed at ‘luring’ the UK back into EU’s social dimension on the grounds that as part of the integration project, it faces much the same challenges as the rest of the Union (Mendelson 2005: 2; Flynn 1999: 2, 4). The UK’s track record of opposing EU social policy measures and the outcome of the referendum on the country’s membership of the Union suggest that such articulations have been only partially successful at best. In fact, these illustrate well the significant difficulties in overcoming traditional identity borders when the supranational level has only limited de-bordering tools at its disposal.

The second major inconsistency is that despite the Commission insistence on the centrality of the social dimension to the integration process, presented above, developments under the Eastern enlargement and the measures for addressing the eurozone crisis suggest that economic issues take priority. In the case of the Eastern enlargement, this imbalance was established through the specific membership criteria the candidate countries had to fulfil. According to the Copenhagen Presidency Conclusions, the applicant countries had to satisfy economic and political conditions and to adhere to the aims of political, economic and monetary

union (1993). This clearly leaves out considerations about the inclusion of the candidate countries into the ESM. This meant that in practice the Commission did not engage significantly with social policy issues during the accession process, resulting in an overall failure ‘to drive through a European vision of social policy’ (Deacon 2000: 159). This was articulated, for example, through prioritizing the economic, administrative and judicial reforms, and the inclusion of the Roma population (Verheugen 2001: 4) or through a lack of focus of the most significant accession-preparation tool, the PHARE programme, on social policy issues in the second half of the 1990s (European Commission MEMO 1998: 2–3).

The inconsistency between the Commission rhetoric on the significance of the social dimension and the actual measures undertaken in this area during the Eastern enlargement process is laid bare even further if one compares them to the developments in the area of border controls. As a number of academic studies show (cf. Bort 2002; Bigo 2002; Grabbe 2000), the EU took many concrete steps to ensure the new member states’ ability to control the future external border of the Union. This was accompanied by significant EU support ranging from exchange of know-how and practice to financial assistance. This eventually culminated in the gradual full inclusion of most new member states into Schengen and the launch of SIS II.

This instance of a determined effort towards de-bordering shows that despite the enormous financial, administrative and other gaps between old and new EU members, inclusion is achievable. However, unsurprisingly, arguably this has not been the outcome (yet) in the social dimension. Instead, there is a lingering distinction between the old and the new members in the social field, indicating the existence of an internal border in the EU. One manifestation of it is the fact that as late as 2005, long after the decision to enlarge was made, a report on the reform of the European Social Models commissioned by the European Commission refers only to the social models of the old member states.⁵ Other manifestations are the persisting differences between old and new member states in their ability to meet social policy targets, even when they are linked to EU funding (de la Porte and Heins 2015: 22); in practices, like industrial relations (Andor 2013b: 3); or the acknowledgement that reducing material deprivation in the new member states is dependent on the implementation of measures for social and territorial cohesion (European Commission MEMO 2009b: 3). All of these obstruct the emergence of the common European identity articulated under the first reading, contributing instead to the creation of different factions in the social dimension.

The secondary position of the social dimension within the integration project is demonstrated also by comparing the substance of the economic and social measures undertaken in response to the sovereign debt crisis. Although, as indicated above, the Commission has taken specific steps towards rebalancing the economic and social parts of the integration project,⁶ in practice crucial differences in the approach taken persist. As de la Porte and Heins show, while the economic governance measures contain enforcement provisions, those on the social dimension are characterized by weak surveillance and enforcement (2015). This indicates that contrary to the Commission claims of equality outlined above, economic considerations have taken precedence over the social dimension. Furthermore, the economic downturn precipitated by the financial crisis has led to mass unemployment in many member states, increasing poverty levels and social exclusion. This kind of development could put into question the existence of the ESM. In turn, this could jeopardize the efforts at creating a European identity and the borders demarcating it. This prompts considering whether there are measures which could alleviate this danger which the Commission discourse fails to raise.

Silences in the Commission Social Dimension Discourse

This indicates the existence of potentially significant silences in the Commission social dimension discourse. For one, the Commission has not proposed enforcement for the measures listed for strengthening the social dimension of the EMU (see European Commission Communication 2013a). More generally, since the Delors era, it has not attempted to reinforce the supranational elements of the social dimension. Inevitably, these jeopardize the common EU social space, the European identity and the external borders it helps establish, in the process obstructing the transformation of identity borders.

Above all, these silences are due to the restricted Commission prerogatives in the social field, which revolve around coordination (Špidla 2008: 5) and fine tuning (European Commission MEMO 2009a: 2) but leave the key decisions to the member states.⁷ These restrictions are compounded further by the design of the integration project itself. As Scharpf has argued, it creates a structure that disadvantages integration in the field of social policy. Therefore, the absence of progress on the social dimension is not a result of agential factors, like the ideological convictions of practitioners, or due to institutional interests (Scharpf 2010), emphasizing

the severe limits for the Commission to engender progress on the social dimension.

Arguably, the merits of this account for the Commission silences are reinforced when one considers the lack of transfer of prerogatives to the supranational level in the social dimension in comparison to other areas affected by functional spillover, like border controls. Indeed, as one could expect, the Commission used the post-2008 situation to advocate a greater role for the EU-level in the social element of the economic governance system (Andor 2013a: 4). So far, this has resulted in the establishment of technical competences, such as a scoreboard for employment and social indicators of the member states (Andor 2013b: 5). As pointed out above, however, currently these measures have significant weaknesses. This casts a doubt over their actual ability to reinforce the social dimension vis-à-vis economic integration. More importantly, however, the substance of such measures does not hold much promise for increasing the EU-level role. In comparison, as discussed in Chap. 2, in the field of border controls the refugee crisis led to the Commission proposals for mandatory resettlement of asylum seekers between the member states. Arguably, this is a measure with much greater potential for increasing the role of the supranational institutions, in the process also potentially accelerating the process of border transformations.

Therefore, the Commission silences on the social dimension slow down identity borders transformation, as they obstruct undertakings that could reinforce the ESM, which would strengthen the European identity and the borders underpinning it. Crucially, given the origin of such silences, it is unlikely that they can be overcome. Even if there are rare occasions when these silences on promotion of measures with a potential to strengthen the social dimension are overcome by the Commission (cf. European Commission MEMO 2013f: 3; European Commission Communication 2013a: 11; or Andor 2013e: 4), the measures it suggests do not seem to have gained traction with the other bodies involved in the EU policymaking processes. Thus, the above-discussed trends on the social dimension and their effects on borders transformation persist.

SUMMARY

This chapter has revealed that the Commission discourse on the social dimension articulates the existence of a common European space in this field. In light of the crucial role played by social policy in the pro-

cess of establishment of the borders characterizing the traditional order, this indicates a clear potential for border transformations. As the subsequent analysis has demonstrated, in this policy field, the Commission discourse transforms identity borders. The discussion has highlighted the Commission contribution to the process of identity borders transformation through articulations affirming the existence of an ESM and the social dimension's centrality to the integration process, as well as through enunciating a specific meaning for them. The last point is crucial in the context of the construction of the EU external borders, an integral part of the process of borders transformation.

As pointed out, a key characteristic of the identity borders constructed through the Commission social dimension discourse is that they are more open and flexible in comparison to traditional ones. This is because the policies and measures establishing the EU social dimension have until now failed to produce an institution comparable in its identity-creating impact to the welfare state. Consequently, the European identity and the borders demarcating it are less anchored and more fluid. In turn, this exposes the post-modern borders to the challenges posed by the much more firmly established traditional ones. As discussed this results in the reconstruction of identity borders in the EU. A key reason for such developments is the particular governance structure of the Union social dimension that severely limits the Commission's ability to promote EU-level measures that would imprint the European identity firmly into the population's psyche. Therefore, overall, in the social dimension, the transformation of borders can be a contradictory process that often comes about indirectly, as a result of actions undertaken in other fields. The plus of this situation is its potential greater openness and flexibility, while its significant downside is that it is conducive to social volatility.

NOTES

1. These are the features of the ESM outlined in Špidla (2008: 2). Flynn (1993b: 2) outlines many of these as core to the EMoS.
2. Cf. the values referred to in Lönnroth (2002).
3. The working poor are individuals who are in a regular employment but are still living in relative poverty as a result of low wages and commitments to dependents.

4. Deregulation is a policy measure associated with neo-liberal ideas. Consequently, given the points discussed above, it is a feature of the ‘Other’ in discussions pertaining to the ESM.
5. The report was later published as a journal article: Sapir (2006).
6. Exemplified best by the European Commission Communication (2013a).
7. As pointed out in a number of Commission documents. Cf. Andor (2010b: 3, 2011c: 4, 2011d: 3 or 2013d: 3).

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ENP—Post-Modern External Relations and the Articulation of Continental Borders

One of the significant achievements of the European integration project is that despite serious initial scepticism, it has affected foreign policy. Today, despite the qualitative difference in capabilities and substance between the Union's and traditional nation states' external policies, the EU has managed to establish itself as an important global player. In light of this, the last empirical chapter of the study looks at the transformation of borders in the field of external relations. More specifically, the focus is on one of the newest EU policies, the ENP. It was introduced as a response to the 2004 Eastern enlargement. Its founding document proclaims the EU's 'determination to *avoid drawing new dividing lines in Europe and to promote stability and prosperity within and beyond the new borders of the Union*' (European Commission Communication 2003b: 4, original emphasis), while stating that the policy's overall aim is '*to develop a zone of prosperity and a friendly neighbourhood—a 'ring of friends'—with whom the EU enjoys close, peaceful and co-operative relations*' (European Commission Communication 2003b: 4, original emphasis). This clearly demonstrates the border-related goals at the core of the ENP; a project aspiring to eliminate the differences and to prop up the commonalities between the EU and its neighbours. This de-bordering is seen as the best way for ensuring that the EU and its citizens can enjoy the political and economic benefits accrued from the successful integration endeavour.

Thus, the ENP transforms the borders of a continent, Europe, in their various guises (i.e. identity or territorial). This is a phenomenon that underscores the deep alterations taking place in contemporary inclusion–exclusion practices by superseding traditional state bordering practices and expanding meaningful inclusion–exclusion dynamics to a continental level. These are made possible by the emergence of the post-national EU as a significant player on the international arena and the advent of supra-national institutions, like the Commission. Therefore, the ENP bordering practices are transformational by default. Their detailed examination, as well as the Commission input into the policy process, highlights several issues central to this study. Firstly, it provides an insight into how the transformation of borders in the field of external relations impacts on the nature and functions of European borders. Secondly, it points out specific vulnerabilities in the Commission conduct of external affairs in the looming post-modern order.

To that end, the first section outlines the relevant policy background and the key academic debates and findings pertinent to the subsequent discussion. Building on these, section two presents the first reading of the Commission ENP discourse, while section three engages with the articulations critically and highlights their inconsistencies and silences. These enable summing up the key points about the nature and functions of the transforming European borders as articulated in the Commission discourse and the specific vulnerabilities in the Commission conduct.

THE ENP—POLICY BACKGROUND AND RELEVANT ACADEMIC DEBATES AND FINDINGS

This section provides the background to the subsequent discussion by presenting three main issues. Firstly, it outlines the design of the ENP. Secondly, it discusses the major academic debates and findings that are of relevance, including questions about the EU's foreign policy actor-ness. Lastly, it sketches out the Commission role in the ENP policy processes, paying particular attention to the changes introduced by the ToL.

The ENP was launched in 2004 as a way of organizing the EU's relations with the countries that were going to become its immediate neighbours after the Eastern enlargement, the non-EU member states in Eastern Europe and the Caucasus region (excluding Russia)¹ and the neighbours in the South [for further details on the ENP, cf. Smith (2005) or Johansson-Nogues (2007a)]. Importantly, with the introduc-

tion of this policy, the EU formally distinguished between countries with a membership perspective (i.e. Turkey or countries in the West Balkans) and states without such a perspective at present. Its overall goal is to spur and anchor economic and political reforms in the partner countries. The key ENP tools for achieving this are the so-called Action Plans and the European Neighbourhood Partnership Instrument (ENPI), later renamed the European Neighbourhood Instrument (ENI). The Action Plans are political and economic reform agendas for 3–5 years negotiated between the Commission, on behalf of the EU, and the partner country (c.f. [EEAS n.d.](#)), while the ENPI/ENI is the main financial instrument funding ENP activities (European Commission MEMO [2013h](#) for more details on the ENP funding under the 2013–2020 financial framework).

The general ENP logic has been that the more progress a partner country makes on the reform agenda, the greater rewards it will get from its interactions with the EU, such as increased access to the common market, for example, by concluding Deep and Comprehensive Free Trade Agreements (DCFTAs). This ENP design means that each country is judged on its own merit. Partnership councils monitor the progress made towards meeting the reform goals set in the Action Plans. On this basis, the Commission publishes regular progress reports. This design of the ENP also makes the policy prone to being technical. This comes through due to the need to assess progress on specific, often highly specialized issues. Crucially, the Commission is the institution that arguably is most deeply involved in the technical aspect of the policy, being the body negotiating, monitoring and assessing the attainment of the goals set in the Action Plans. This leads Nugent and Rhinard to portray the Commission understanding of the ENP as going beyond traditional foreign policy, instead supporting a longer-term, incremental and technocratic approach to stabilizing relations with the partner countries ([2015](#): 376).

Furthermore, this policy design shows that despite the ENP's lack of clear membership perspective for the partner countries, it employs the thinking and policy tools developed under the enlargement policy. This is one of the ENP's distinctive characteristics. Above all, the commonalities between the enlargement policy and the ENP are evident in the use of conditionality. However, with the absence of a membership perspective, the EU's leverage under the ENP is inevitably diminished. Thus, scholars have referred to the Neighbourhood policy as a 'conditionality-lite' (cf. [Sasse 2008](#): 296). This is a second important characteristic of this policy area. The ENP's third notable feature is its ambiguous position on inclu-

sion–exclusion issues (pointed out, for example, by Kostadinova 2009 or Zaiotti 2007).

More specifically, on the one hand, this policy is an undertaking for regional governance, a project that aims to extend the EU's social, economic, environmental, cultural or political practices beyond its borders towards its partner countries in the neighbourhood. As such, it is conducive to de-bordering by diminishing the salience of territorial, identity or legal borders. The last type of border is distinctive to the ENP (not included in the earlier analysis). It was introduced by Lavenex and denotes the expansion of the *acquis communautaire* to the neighbourhood through the pressure on the partner countries to subscribe onto the Union's regulatory framework (2004: 683). On the other hand, however, the ENP is one of the policies through which the Union has sought to address the post–Cold War security challenges in Europe. Contrary to the de-bordering tendencies of the regional governance aspect of the policy, this trend contributes to the emergence of a clear border at the EU's external edges. Consequently, Scott argues that the ENP should be understood as a project of: 're-territorialisation that combines traditional geopolitical concerns and a politics of "regional difference" with a post-national focus on mutual interdependence and partnership' (2009: 232). While the traditional geopolitical concerns lead to the articulation of (novel) territorial, identity or legal borders, the post-national focus pushes towards de-bordering.

This points to a complex ENP contribution to border transformations, suggesting diverse, at times contradictory, inclusion–exclusion trends and nature and functions of borders in Europe. These are a result of the specificities of EU foreign policy conduct, which resolve long-standing issues of international relations, like cooperation and conflict, in distinctive ways, in the process gradually constructing a meaning for external relations in the post-modern era. The normative power Europe debate highlights key points about the substance and manner of this external relations conduct and is therefore briefly presented. This aims to ground the discussion in the subsequent sections by teasing out the specific elements of the external relations conduct characteristic of de-bordering and those peculiar to exclusionary practices.

The debate was ignited by Manners, who in his seminal article argued that the EU is a unique international relations actor, one that promotes norms through employing the power of attractiveness and persuasion as opposed to pursuing its interests through military means (2002). This

account presents the EU as conceiving of cooperation as the basic feature of contemporary international interactions, a result of the increasing interdependence we are witnessing today. From this point of view, negotiations enable finding mutually beneficial solutions to problems. As former Commission President Prodi puts it, in the contemporary international arena, actors need to ‘cooperate in their common interest for the sake of a better future for all’ (cited in Diez 2004: 327). Ultimately, actors adopting this approach to external relations privilege partnership as the dominant form of international interaction and downplay conflict. The international order emerging out of it is conducive to de-bordering, concurring with the stated overall objective of the ENP. It increases international interactions, which facilitates inclusion.

This account of EU external interactions, however, has been criticized both theoretically and in the findings of empirical studies (cf. Hyde-Price 2006; Diez 2004, 2005; or the contributions in Pace et al. 2009, esp. the contribution by Seeberg 2009). The criticisms point to the existence of exclusionary practices, highlighting the persistence of conventional geopolitics in the contemporary EU external relations conduct in terms of both particular policy considerations and implementation tools. Such criticisms highlight the traditional elements in EU external relations, which obstruct the establishment of a radically different international order. Contrary to the post-modern belief in the ability to reach mutually beneficial resolutions of conflicts through negotiations, the traditional element in EU external relations privileges the attainment of goals deemed crucial for the interests of a particular actor. In distinction to the inclusionary partnership predisposition of the post-modern conduct, the traditional approach rests on calculations of power balance and zero-sum thinking. These instigate parochialism, which is conducive to the creation of borders. Arguably, an important reason for the persistence of this element in EU external relations is that member states, the traditional external actors par excellence, remain the most powerful players in this policy domain. They usually counter-balance the Commission input and often resist the implementation of inclusionary practices (the points in Tömmel 2013: 33–4 can be understood in this way).

Crucially, however, some have argued the merits of basing EU external relations on more traditional strategic considerations (Witney et al. 2014), suggesting that an approach based entirely on the post-modern features outlined above has important shortcomings. Thus, the pursuit of de-bordering can be accompanied by certain external relations vulner-

abilities. For the proponents of this view, constructs like ‘neighbourhood’, which are central to the ENP, embody such vulnerabilities as they send out wrong or confusing signals and obstruct strategically informed external relations policy choices (Witney et al. 2014: 2–3). Crucially, the concept of ‘neighbourhood’ was enunciated by the Commission, expanding the ENP’s geographical scope to also include Mediterranean third countries. This process facilitated the assertive projection of the EU’s governance model into its ‘near abroad’, contributing to de-bordering (Jones and Clark 2008: 552–3). This indicates potential Commission susceptibility to the vulnerabilities accompanying the pursuit of de-bordering. It also demonstrates the significant Commission input into the formative period of the ENP, showing its ability to sway the EU policy processes in the field of external relations.

This ability has persisted, despite certain limitations the Commission faces. More specifically, the Commission’s leverage rests on its role as a hub receiving and mediating between the different and often contradictory demands of the various ENP stakeholders. These encompass a wide array of actors, including the member states, partner countries’ governments and different non-governmental players. As Jones and Clark put it: ‘The European Commission is at the centre of this internal-external Europeanization dynamic, actively mediating between the contradictory demands of EU Member States in search of European solutions to external events and problems and at the same time managing, negotiating and coordinating relations between the EU and a diverse range of global political spaces’ (2008: 546). The Commission has used this to expand its scope of action within the EU decision-making system, usually by proposing measures in areas of interest to all member states (i.e. visa policy or migration more generally), as this makes attainment of Council consent most likely (Tömmel 2013: 33). At any given time, however, the specific ENP achievements of the Commission depend on the bounded constraints imposed by the member states (Jones and Clark 2008: 557). Ultimately, this means that the particular outlook of the policy is an expression of the dominance of either the Commission or the Council in the policymaking process at the time the decision was made (Tömmel 2013: 35).

Some have asserted that the Commission plays an even greater role in the implementation stages of the policy process: ‘With its plethora of rhetorical devices, the Council of Ministers may have appeared as the most influential arbitrator of EU foreign policy. But when it comes to “real” foreign policy impact of the EU in the last decade, the power lay

with the Commission. While one can debate the relative influence of Council and Commission foreign policy... The Commission ... conceptualized the ENP and will implement it' (Commission official, cited in Kelley 2006: 31).

The amendments introduced with the ToL in the external relations field, however, have the potential to weaken the Commission's standing within the relevant policy processes. Among the key changes that can have such an effect are the strengthened institutional position of the European Council, which could interfere with the Commission strategy-setting and coordination prerogatives. Also, the creation of the double-hatted post of High Representative of the Union for Foreign Affairs and Security Policy (HR) and the European External Action Service (EEAS) has transferred many external relations prerogatives away from the Commission. This creates several actors potentially competing for a role in the same policy field. Lastly, the ToL granted the EP a formal role in negotiations with third parties, requiring the Commission to consult it and get its approval for the signing of agreements (Nugent and Rhinard 2015: 352–7). Nevertheless, Nugent and Rhinard warn against exaggerating the weakening of the Commission role in external relations, for example, because room was left for the Commission to compete for powers or because due to the dual institutional attachment of the HR, the Commission is still associated with the issues the position-holder deals with (2015: 357–8). Consequently, despite some changes to the policy processes and the Commission role in it, arguably its ability to influence ENP developments persists. Ultimately, a more precise judgement on the effects the ToL has had on the Commission role in the ENP can only be passed after more time has elapsed, allowing the dust to settle.

This discussion has outlined key issues on the ENP functioning and governance structure, its relationship with the EU's external relations conduct and inclusion–exclusion practices, as well as the Commission role in the policy processes. An important outstanding question, in light of the diversity of the ENP partner countries, is to clarify the basis on which the documents examined in the subsequent sections were selected. In addressing this issue, the goal has been to select case studies that reveal a wide range of circumstances, thus enabling the development of a comprehensive overview. Ultimately, the focus is on Commission articulations pertaining to four (out of 16) ENP partners, Egypt, Libya, Tunisia and Ukraine. These cover countries

with different track records of relations with the EU, from established ones (i.e. Ukraine, Tunisia and Egypt) to less well developed ones (Libya), as well as spanning the two geographic regions of the policy, the Southern and Eastern neighbours. These countries also vary in size or economic outfit. Nevertheless, they have all been important participants in the momentous neighbourhood developments over the last few years, the Arab Uprisings and their fallout, and the ongoing ‘hot’ conflict in Ukraine. This will enable outlining the responses to these events, as articulated in the Commission documents. Developing such an account is crucial, given that some of the processes triggered have provided opportunities for the attainment of key ENP aims, like the establishment of more democratic, open and accountable political systems in the partner countries. In turn, this is conducive to achieving the inclusionary aims of the policy, also contributing to de-bordering. Given that an earlier study has examined the Commission ENP bordering articulations in the first few years of the policy’s existence (Kostadinova 2009), the discussion below looks at the post-2011 discourse and flashes out the key continuations and innovations in the enunciated bordering practices.

FIRST READING OF THE COMMISSION ENP DISCOURSE— DE-BORDERING THROUGH COOPERATION

This section presents the response to the Arab uprisings and to the developments in Ukraine as articulated by the Commission ENP discourse and analyses their contribution to the transformation of European borders and their nature and functions. It shows the prevalence of the inclusionary de-bordering trend, contributing to the establishment of permeable European borders that will enable the EU and the partner countries to better each other through cooperation and partnership. This is in concurrence with the post-modern element of the EU external relations conduct and works towards the creation of a shared area between the Union and the neighbourhood countries. More specifically, the measures undertaken in support of the economic and political transition in the Southern neighbourhood are the Commission blueprint for this transformation of European borders. Similarly, the thinking informing the interactions with Ukraine in the run-up to the eruption of the 2014 conflict and in the months following it is inspired by precipitating this inclusionary outcome.

The Response to the 2011 Arab Uprisings

The Arab uprisings of 2011 were sparked by the self-immolation of an underemployed graduate in a small Tunisian town in mid-December 2010. Around a month later, after the spread of the protests, on 14 January 2011, the President Ben Ali fled the country. Given that the demands of the protesters were in line with the ENP's overall goals, the Commission articulated support for them. For example, on 17 January, the Commissioner responsible for Enlargement and Neighbourhood Policy Štefan Füle stated that the Union wants to support the Tunisian people in their endeavour to establish a stable democracy, in full respect of fundamental rights and freedoms (2011d: 2; see also European Commission MEMO 2011i). Similarly, after the escalation of the protests in Egypt in January–February 2011, the Commission officials called on the country's authorities to: 'ensure an immediate transition and to respond to the democratic ambitions of the people' (Füle 2011g: 2), while during the Libyan civil war, the Commission supported the Transitional National Council, the organization recognized as the legitimate representative of the Libyan people before the toppling of Qaddafi (cf. European Commission MEMO 2011n, 2011r).

Such documents articulate Commission support for the transitions in the Arab Spring countries towards democracy. This contributes to attaining the stated ENP goals of creating a common space between the EU and its neighbourhood and transforms European borders through reducing the salience of existing territorial and identity divisions. To facilitate this process further, in the spring of 2011, the Commission passed two Communications outlining the concrete measures it planned to undertake to calibrate the ENP better to the changed environment in the Southern EU neighbourhood.² The first of these documents divides the Union's response into immediate actions and adaptation of the ENP, which foresees measures in the areas of democracy and institution building, addressing the challenges of mobility, promotion of inclusive democratic development, maximizing the impact of trade and development, or enhancement of sectoral cooperation (European Commission Communication 2011b: 3–11). The ideas contained in this document were developed further and spelled out in greater detail in the second key Commission ENP document (European Commission Communication 2011a). It defined terms such as 'deep democracy', 'mobility partnership' or 'mutual accountability' as well as the specific tools to be used to promote the establishment of the common space between the EU and its Southern neighbours.

The Commission defines deep democracy as the kind ‘that lasts because the right to vote is accompanied by rights to exercise free speech, form competing political parties, receive impartial justice from independent judges, security from accountable police and army forces, access to a competent and non-corrupt civil service—and other civil and human rights’ (European Commission Communication 2011a: 2). For their part, the Mobility Partnerships are comprehensive frameworks aimed at ensuring the good management of the movement of persons between the EU and an ENP partner country. In tune with Commission articulations under other Union policies, like FMP or border controls, their two key goals are providing better access to legal migration channels and strengthening border management capacities, while at the same time enabling handling of irregular migration (European Commission Communication 2011a: 12). A clear articulation of what the principle of mutual accountability entails is much more difficult to find. However, the documents that elaborate on it do so in the context of allocation and distribution of funds under the ENP, so that there is greater convergence between the policy’s aims and the way the money is spent (cf. European Commission Communication 2011a: 3 and European Commission MEMO 2013h: 3).

Some of these phrases like ‘deep democracy’ were articulated after the beginning of the Arab uprisings. Despite that, overall, the discourse did not enunciate an entirely new Commission thinking of the best ways to respond to the serious unrest in the Southern neighbourhood. This is somewhat surprising, given the Commission’s own admission of the limited results of the ENP in spurring political reforms since the launch of the policy in 2004 (European Commission Communication 2011a: 1). In this context, the unrest in the Arab world could have provided the opportunity for a more radical re-thinking of the policy’s principles and underlying premises. Instead, the reiteration of the key principles and policy tools, such as conditionality or the provision of financial assistance, show the overall continuation of the main de-bordering themes from the previous years. Nevertheless, there were some innovative enunciations at the margins. For example, the principles of conditionality and individual country achievement were recast under the phrase ‘more for more’ (European Commission Communication 2011b: 5 elaborates on it). This also implies continued application of the ideas informing the adoption of the Actions Plans.

Crucially, such enunciations are also in tune with the post-modern, normative aspect of the EU’s external relations conduct. They articulate

the emergence of a common space in the neighbourhood on the basis of shared values and equal partnership; an interaction in which all parties can have a comparable input into their design and implementation. So, for example, the HR Ashton states that the revised ENP is a: ‘*partnership* between peoples aimed at promoting and supporting the development of deep democracy and economic prosperity in *our* neighbourhood’ (European Commission Press Release 2011h: 1, emphases added). Furthermore, according to Commissioner Füle: ‘if there were still sceptics on both sides who thought that these values were only shared in theory, they should listen again to the voice of the Tunisian street over the last days and weeks. What was this if not a solemn demand for democracy and for more economic justice?’ (2011d: 2). The effort to establish the ENP as an equal partnership is also discernible in the articulations that emphasize the existence of a dialogue between the EU and the neighbourhood partners. This is well exemplified by Ashton’s outline of one of the three key objectives of the EU/Tunisia Task Force as the need to *listen* to the needs of the Tunisian people (European Commission Press Release 2011n: 1, emphasis added). Furthermore, Commission officials are keen to stress that the EU would not try to impose any solutions on the Arab Spring countries. Instead, it aims to share with them its knowledge: ‘We offer our partners our experience, our expertise and our assistance towards democratic reform. But we do not offer a blueprint for this exercise of reform, nor do we try to impose our model’ (Füle 2011a: 2).

In many ways, the indigenous character of the uprisings warranted this approach and required nothing else. As commentators have pointed out, the Arab uprisings shattered many long-held myths about the region and clearly demonstrated not only the Arab public’s desire for change but also their political maturity and willingness to pay even the highest price to attain it (cf. Ramadan 2012 or Cleveland and Bunton 2013: ch. 26). What is crucial for this analysis, however, is these articulations’ de-bordering thrust. In line with the ENP goals since its inception, they stress the commonalities between the EU and the neighbourhood, working towards eradicating the identity differences that may exist and emphasizing territorial and legal inclusion over exclusion. Furthermore, such articulations enunciate the EU ‘Self’ as knowledgeable and willing to share its experience through non-forceful interactions with counterparts acting of their own free will. Although the Union has an interest at stake from these relationships, its goals are not the insular, inward-looking ones of a traditional international actor. On the contrary, the aims pursued by the EU are also of benefit to

its partners in the common neighbourhood. This indicates the universality of the goals sought and the ability of the partner countries to attain them.

The particular steps the Commission has undertaken towards the implementation of the ENP and the activities financed under it further reinforce these inclusive trends. Among the most prominent actions that exemplify this are the Support for Partnership, Reform and Inclusive Growth programme (SPRING), the increased participation in the ERASMUS MUNDUS programme for individuals from the EU neighbourhood, the measures undertaken in support of civil society in the region, the agreements for visa and trade liberalization with the Southern neighbourhood partners or the establishment of the Endowment for Democracy. The SPRING programme was adopted in September 2011, in direct response to the Arab uprisings. Its main aim is articulated as responding: ‘to the pressing socio-economic challenges that partner countries of the Southern Mediterranean region are facing and to support them in their transition to democracy’ (European Commission MEMO 2011j: 1). Between 2011 and 2012, it was foreseen to spend €350m on project financing (European Commission MEMO 2011j: 2).

The Commission has also undertaken a number of more targeted measures to ensure the attainment of the ENP’s inclusive aims. Firstly, actions in support of the establishment of a thriving civil society have been implemented. For example, the Commission launched the Civil Society Facility, with a budget of €22m for the 2011–2013 period (European Commission MEMO 2011k). Also, it announced its intended goal of establishing a deeper and closer relationship with the Anna Lindh Foundation (European Commission Press Release 2011j). Additionally, the number of scholarships available to students and academic staff from the Southern Mediterranean partner countries was boosted. So, for the 2011–2013 period, on top of the planned 1200 scholarships, the Commission added 750 additional ones. Simultaneously, it was planning to increase the number of projects funded under the Tempus programme (European Commission MEMO 2011p). Furthermore, at the end of 2012, the European Endowment for Democracy was launched. Its aim is to provide support for actors facing obstacles to accessing EU funding (i.e. journalists, bloggers or political movements). The initial geographical focus was on the European neighbourhood region (European Commission Press Release 2012d).

Perhaps unsurprisingly, a crucial feature of this element of the Commission ENP discourse has been its highly technical nature, which comes through in several main ways. Firstly, the procedures for apply-

ing for funding are complex and have at times led to only specific actors being able to successfully satisfy the stipulated requirements. Secondly, given that the EU has developed an ethos of aiming to assess and measure the outcomes of undertakings it is involved in, the Commission monitors closely the implementation of the projects that are EU-funded. Taken together, these establish a highly specialized environment, requiring expert knowledge to navigate successfully. This is an environment that strives to preclude political considerations. It is an environment to which the Commission is well adapted, suggesting a predisposition towards a technical understanding and response to events as opposed to sophisticated political considerations.

Thirdly, the Commission has worked to liberalize trade and movement of people between the EU and the Southern Mediterranean countries. For example, as early as April 2011, in response to the March Communication, the CoM launched the process of signing the regional Convention on pan-Euro-Mediterranean preferential rules of origin. This is a step aimed at facilitating EU trade with the partner countries in the Southern Mediterranean and the Balkans (European Commission Press Release 2011q). Another instance of these efforts is the key priorities of the EU/Tunisia Task Force. Among others, they envisage the re-launching of the EU–Tunisia negotiations for the establishment of a privileged partnership between the two entities; the re-launch of negotiations on agricultural liberalization; the launch of negotiations for the signing of a DCFTA; and the launch of a Dialogue on Migration, Mobility and Security with the Union. As the document stresses, Tunisia is the first South Mediterranean country to benefit from the last measure (European Commission MEMO 2011l: 2; see also European Commission Press Release 2011m). Simultaneously, the Commission has articulated numerous smaller-scale steps aimed at alleviating the most grievous socio-economic problems in the Southern neighbourhood countries and supporting their political transition (cf. the articulations in Fülle 2011a: 3–4; European Commission Press Release 2011o,p,s, 2012c,e,f, European Commission MEMO 2011m).

All these measures are conducive to transforming current divisions between the EU and its Southern neighbours by creating a common space where territorial or legal borders are reduced or eradicated altogether. Simultaneously, the steps towards enabling a freer movement of people can in time decrease identity borders and foster the emergence of a common identity. All of these undertakings exemplify the implementation in practice of the normative, post-modern element of the EU's external rela-

tions. They aim to provide mutually beneficial solutions to common problems through engagement and cooperation.

The attainment of this goal was reinforced by a crucial innovation in the ENP, which has significantly boosted the EU's ability to contribute to the de-bordering of the neighbourhood: the changed design of its key financial instrument, the ENPI/ENI. In the early years of the policy, there was a distinction between the financing of projects in the EU and in the neighbourhood countries. This severely restricted the ability to conduct common projects at the border areas spanning across the EU and the partner countries. More recently, however, the provisions have been changed, enabling the financing and implementation of the so-called Cross-Border Cooperation programmes. They fund projects running across the EU–partner country borders and aim to promote economic and social development through addressing common challenges (European Commission MEMO 2011q: 5). Another important question was the amount of money available for funding ENP projects. Despite the Commission's (and the EP's) attempt to secure more funds for the 2014–2020 period as compared to the previous multiannual financial framework (European Commission MEMO 2011q: 5), the member states managed to limit the rise of spending and the latest multiannual financial framework allocates to the ENI funds comparable to those available in the 2007–2013 period (European Commission MEMO 2013h). Undoubtedly, this is a result of the multiple challenges the EU was facing at the time of the adoption of the financial framework. However, the outcome of the Union budgetary process negotiations casts doubts over the EU's ability to provide the funds needed for the successful support of the transition processes in the Southern Mediterranean partner countries. Crucially, it also exemplifies a situation in which the Commission faced significant restrictions on what it could achieve in the Union decision-making process against opposition in the CoM and the European Council.

Overall, the Commission articulations since the 2011 Arab Uprisings allude to many of the key features of the post-modern, normative external relations conduct. They transform European borders through promoting inclusivity and the establishment of a common space between the EU and the partner countries where legal, identity and territorial borders are not salient. The Commission articulations on Ukraine, an East European neighbour, further exemplify these trends. Crucially, however, they are also an instance of the Commission ENP discourse downplaying traditional concerns with geopolitics. The next section presents these issues in detail.

The Articulations on Ukraine

A key similarity with Commission articulations on the Southern neighbourhood is the emphasis on the commitment to the values of democracy, human rights and the rule of law. Crucially, some Commission documents explicitly state that Ukraine has committed itself to these values (Fülle 2011f: 2). As with the articulations on the Southern neighbours, the overall aim is developing a close partnership (Fülle 2011f: 2). Furthermore, the Commission ENP officials have declared EU's support for Ukraine through all the resources at their disposal (Fülle 2012d: 2). These articulations continue the line discussed above, towards reducing European identity borders and establishing a common identity in the neighbourhood. Crucially, some articulations not only promote this inclusive view but also, concurring with the post-modern gist of the Commission discourse, downplay the importance of traditional geopolitical considerations.

This is best illustrated by Commissioner Fülle stating: 'we need to be aware of geopolitics but we should not play geopolitics' (2012b: 3). The gist of this statement is very significant as it articulates the EU and its representative, the Commission, as disinterested in getting involved in traditional geopolitical struggles in its neighbourhood, a region in which an increasingly assertive Russia also has a stake. Such an attitude is in tune with the understanding of the EU 'Self' discussed below and with the external relations behaviour stemming from it. However, the continued importance of geopolitical issues is underscored by the subsequent outbreak of the conflict in Ukraine with the dramatic events there since the end of 2013. Thus, below, the distinctive features of the Commission downplay of geopolitics, as enunciated in the case of the EU's relations with Ukraine, are presented. This elucidates the thinking that informs this discourse and allows analysis of its possible weaknesses, hence exposing potential vulnerabilities in the Commission external relations conduct.

More specifically, this discourse has two important characteristics. Firstly, prior to the outbreak of the conflict in Ukraine in 2013–2014, Commission articulations refer to Russia infrequently and when they do, this tends to be indirect, alluding to it. So, for example, according to Commissioner Fülle: 'deepening relations with the EU does not mean closing the door to other strategic partners' (2011c: 3) of Ukraine. Importantly, this articulation also demonstrates the EU's belief that mutually beneficial solutions can be found to common problems, a belief grounded in the Union's inclusive, post-modern understanding of international politics. Secondly,

the Commission articulates the EU's values and principles as the issue of greatest importance, as it is believed that otherwise the Union will face challenges in its neighbourhood. For example, according to Commission officials, the one thing the EU should never compromise on is its values and principles (Fíle 2012b: 3). Although necessary for a consistent articulation of the EU's normative power, this view is potentially dangerous. It predisposes the EU, and more particularly the Commission, to inflexibility in certain types of international interactions, for example, when there are disagreements with third countries.

The technocratic character of the Commission interactions with the ENP partner countries entrenches this inflexibility further. Conditionality and other specific measures the Commission undertakes towards attaining the inclusive ENP goals articulate the relationship as apolitical, requiring highly specialized professional knowledge. Although, as with the Southern neighbourhood partners, a myriad specific actions are undertaken every year, broadly speaking they can be classified in two main categories: firstly, steps undertaken to support the partner country and secondly, moves towards the implementation of the principle of conditionality and its envisaged rewards. Under the former, in the case of Ukraine, the EU has, for example, provided €12m in support of regional development (European Commission Press Release 2011k); supported local communities development (European Commission Press Release 2011i; Fíle 2011e: 3) and invested in institutional reform (European Commission Press Release 2011l). This type of measure is meant to provide the necessary resources that will enable Ukraine to build up its capacities (i.e. administrative and know-how), so that it can benefit to the full from its intensified interactions with the EU. During this process, existing legal borders between the EU and Ukraine are rendered less relevant.

These de-bordering trends are further reinforced by the practical measures undertaken towards the implementation of the conditionality principle. This is articulated in the following main ways. Firstly, on a number of occasions, Commission officials have raised concerns about Ukraine's adherence to some of the neighbourhood's common values. This is best exemplified by the enunciations on key, high-profile court cases, such as the one against Yulia Tymoshenko (cf. European Commission MEMO 2011h,o or 2012e). Secondly, it is reiterated that addressing such concerns is crucial for facilitating Ukrainian progress on issues like the signing and ratification of the Association Agreement (European Commission MEMO 2012d), the DCFTA or visa liberalization. Such articulations concur with

the goal of developing impartial criteria for assessing the processes in the common neighbourhood. In turn, this conveys the idea that a country's progress is judged solely on its own merit and that this judgement is apolitical, based on clearly spelled-out criteria, outlined at the beginning of the EU–partner country interactions. Despite the obvious benefits of this design for relations with external partners, it rules out a wide range of foreign policy tools and options, thus reducing an actor's scope for action in the international arena. This is why such external relations conduct is prone to inflexibility. This is one significant vulnerability international actors should take into account. Another important consideration is that arguably, even with the best of intentions, insulating oneself from behaving politically on the global stage is unattainable. The vacillations in the Commission assessment of Ukrainian progress under the ENP can be seen as an illustration of these considerations in practice.

More specifically, overall, they articulate the country as one of the front-runners under the Eastern Partnership. It finalized the negotiations on the Association Agreement in December 2011, which among other things contained provisions for the establishment of a DCFTA between the EU and Ukraine (European Commission MEMO 2012c). Similarly, the first report on the implementation by Ukraine of the Visa Liberalisation Action Plan acknowledges the country's progress in key areas and highlights where more work still needs to be done. The final goal of this visa dialogue is to allow visa free travel of Ukrainian citizens to the EU (European Commission Press Release 2011r).

However, a notable shift from constructive criticism (characteristic of other annual reports on the neighbourhood partner countries) to much more supportive enunciations in the aftermath of the beginning of the conflict in Ukraine in 2014 is also discernible in the Commission discourse. For example, the report on the progress made in 2011 follows a standard format, emphasizing key issues that still need to be addressed in areas ranging from political and legal issues to economic and social reform to people-to-people contacts (European Commission MEMO 2012b). More recently, however, the enunciations have instead been focused on the key EU measures undertaken in support of Ukraine in the difficult circumstances of an ongoing violent conflict (European Commission MEMO 2015b or 2015d). Furthermore, the progress report on the country for 2014 is much more positive on the developments in the political sphere, while some of the causes of the worsening economic situation are attributed to the deteriorating security conditions (European Commission MEMO

2015c). Another important feature of this discourse is that its articulations are critical of Russian policies (cf. Fúle 2014b, 2014c: 3, 2014d: 1–2). Such changes in the discourse can be attributed to Commission sensitivity to the evolving geopolitical situation, which, contrary to the ENP’s apolitical and technocratic ethos, puts political considerations back into the forefront of external relations conduct. Crucially, such inconsistency also contributes to the creation of borders in Europe, as it facilitates the establishment of exclusionary practices. The next section probes these issues in detail, analysing the specific nature and functions of the borders emerging as a result of it.

SECOND READING OF THE COMMISSION ENP DISCOURSE—CONSTRUCTION OF EUROPEAN BORDERS

More specifically, such transformations of borders in Europe are highlighted through a critical engagement with the Commission ENP discourse. Besides probing its inconsistencies, the section also looks at silences, a failure to raise issues that are likely to facilitate the attainment of the stated policy objectives. The section analyses these matters, again paying attention to the continuities and innovations in the Commission articulations.

Inconsistencies in the Commission ENP Discourse

Three key inconsistencies in the Commission ENP discourse transform European borders by contributing to the construction of territorial and identity divisions between the EU and the neighbourhood countries. Firstly, key aspects of the design and implementation of the policy cast doubt over the equality of the interactions between the Union and its neighbourhood partners. In turn, secondly, this raises questions about whether the partnership is really mutually beneficial. These inconsistencies in the Commission ENP discourse continue the pre-2011 trends, given that analysts and observers have pointed out the exclusionary dynamics of the policy since its launch. The novel inconsistency is highlighted by the Commission enunciations in the run-up to the outbreak of the conflict in Ukraine. As will be argued below, they obstructed finding a peaceful resolution to the brewing disagreement in Ukraine. Arguably, this outcome came about as a result of the above-discussed inflexibility embedded within the current set-up of the post-modern external relations conduct

pursued by the Commission. Crucially, this precluded finding a mutually beneficial solution to the disagreement in Ukraine. This is contrary to the declared Commission stance in favour of cooperation. Perhaps even more importantly, it implicated the European integration project, renowned as peace-promoting, in the eruption of a violent conflict on the continent. Thus, paradoxically, the Commission's peaceful understanding of the 'Self' has been challenged. All three inconsistencies illustrate the ambiguous Commission adherence to the inclusive, post-modern external relations behaviour articulated under the first reading of its ENP discourse, contributing to the emergence of borders in Europe instead.

The first inconsistency, the unequal design and implementation of the ENP, stems from the persistent power asymmetry in the EU's relations with its neighbours. Johansson-Nogues, for example, denotes it by referring to a forceful language of conditionality (2007b: 182). The inequality of the interactions under the ENP is articulated in several ways. Firstly, it is one of the partners, the EU, on the basis of the Commission's recommendation, that decides on the activation of a specific element of the bilateral relationship, like the implementation of a visa liberalization measure or the conclusion of a DCFTA. For example, in an address to the Ukrainian Parliament in early 2013, Commissioner Füle states that EU-Ukraine Association Agreement 'can happen as soon as there is determined action and tangible progress on specific benchmarks' (2013d: 4). Furthermore, with regards to visa liberalization, he states that when the first phase has been completed satisfactorily: 'we will assess it and provide a report which should recommend starting monitoring of the things done and move Ukraine to the second phase of the Visa Liberalisation Action Plan' (Füle 2013d: 4). The same approach is also evident in Commission articulations towards the Southern partners, where, for example, a Mobility Partnership has been signed with Tunisia, after the transition trajectory in that country post-2011 was seen as a commitment to reforms and the respect of human rights and fundamental freedoms (Füle 2014a: 2; see also Füle 2011a: 2–3).

Secondly, the inequality of the relationships is articulated through the ENP's financial arrangements, under which the EU is the most significant financial contributor. Although it is difficult to provide a fully comprehensive picture of the EU's financial commitment to the ENP partners, a few examples illustrate its scale. Under the latest multiannual financial framework (2014–2020), the EU is committed to spending €15,433,000 under the ENI (European Commission MEMO 2013h: 2), the most significant

source for financing undertakings under the ENP (European Commission MEMO 2013h: 4). Admittedly, this figure is for a seven-year period. Furthermore, there are 16 partner countries amongst which the funds will be dispersed. Nevertheless, arguably for most ENP partner countries, the money they could receive under this policy is significant, given that most of them are relatively small and that most of them have weak economies. Thus, the indicative allocation for Libya for the 2014–2015 period is between €36,000,000 and €44,000,000, while it is between €202,000,000 and €246,000,000 for Tunisia for the same period (European Commission Press Release 2014c: 3 and 4 respectively). Unsurprisingly, however, the most significant financial support has been given to Ukraine, after the outbreak of the conflict there. In the Commission’s own words, since 2014, the EU and the Member States have delivered ‘unprecedented level of support’ for Ukraine (European Commission MEMO 2015d: 1). More specifically, since March 2014, the EU and European Financial Institutions have committed €11bn to support Ukraine’s political, economic and financial stabilization, while €6bn has been mobilized through loans and grants (European Commission MEMO 2015d: 1). Inevitably, this asymmetry in the financial contribution to the policy provides the EU with the decisive say in the design and implementation of the specific ENP undertakings potentially over the preferences of the partner countries.

Thirdly, the unequal ENP power dynamic has an ideational aspect. It has led Haukkala to refer to the EU as a regional normative hegemon, arguing that an outcome of this policy has been the facilitation of active transference of the Union’s norms and values (2008: 1602). Commission articulations illustrate this thrust well. For example, in a speech on Ukraine, Commissioner Füle states: ‘*They [Ukrainian leaders] need to show that they embrace the values underpinning political association with the EU. They need to convince us that Ukraine is serious about democracy, the rule of law, and that Ukraine is serious about the Association Agreement currently being negotiated with the EU*’ (2011f: 2, emphasis added). In a similar vein, when the Commission increased the number of Erasmus Mundus scholarships for Southern Mediterranean students in the aftermath of the 2011 uprising, one of the justifications for this was that: ‘EU’s neighbours continue to be on a *transition* towards establishing fully-fledged market economies’ (European Commission MEMO 2011p: 1, emphasis added).

Such enunciations underscore the current differences between the EU and the partner countries, in the process articulating them as the ‘Other’.

This draws a border in Europe between the partner countries and the EU. Furthermore, it advances a particular meaning of the EU ‘Self’ as well versed in the practices of good governance, transparency, accountability or observance of human rights and fundamental freedoms. For their part, the partner countries are still to prove the implementation of these desirable qualities in their domestic practice. In clear contradiction to the inclusive ENP Commission rhetoric, these contribute to the creation of an identity border between the Union and its partner countries. Although in the long run there is still potential for the establishment of a common identity in the neighbourhood, the way in which it would be achieved is a far cry from the aspired-to equal interactions and dialogue.

In turn, this raises questions about the mutual beneficence of the EU–neighbourhood country partnerships. For example, due to the power asymmetries of the ENP, the policy priorities can reflect more closely the EU’s preferences. Furthermore, this can lead to policy outcomes that are more favourable to the Union. Any significant imbalance in either of these elements of the policy can be seen as an important deviation from the partnership principles of the post-modern external relations conduct, thus indicating a notable discrepancy in the Commission ENP discourse. Indeed, such incoherencies can be traced in the Commission articulations.

Firstly, contrary to the inclusive rhetoric of the policy, its genesis in the 2003 European Security Strategy that articulated the neighbourhood as a source of danger for the Union (Council of the European Union 2003) indicates that a crucial EU aim with the ENP has been developing tools for addressing soft security concerns. This has not only enunciated the partner countries as the ‘Other’, thus constructing identity borders, but also led to the implementation of a restrictive regime for movement at the external EU borders, thus creating a territorial border between the EU and the neighbourhood countries. In light of this, secondly, it is not surprising that a key goal of the partner countries has been liberalizing the regime for their citizens’ movement to the EU. Crucially, however, ENP developments to date show that this has not become a policy priority. Although the EU has undertaken certain steps, their overall effect is limited, while the process for liberalization of movement of people is cumbersome and subject to complicated technocratic procedures overseen by the Commission. Furthermore, the measures undertaken in this area pertain to certain sections of the partner countries’ populations, thus contributing to further entrenchment of existing identity borders there.

The recent developments on visa liberalization and greater mobility for citizens of Ukraine and Tunisia, two partner countries whose most recent reform measures the EU has been overall positive about, demonstrate these points well. A look at the key issues where action has been undertaken for ensuring people-to-people contacts and intercultural dialogue between the EU and Tunisia reveals that key beneficiaries have been Tunisian students, researchers and academic staff. As pointed out above, increase in the number of scholarships for these categories of people under the Erasmus Mundus programme was a key response to the Arab Spring. In 2013, a further €10m were allocated under the National Indicative Programme for Tunisia for these scholarships (European Commission Press Release 2013d: 2), while the Mobility Partnership between Tunisia and the EU, signed in early 2014, provides for cooperation in the management of migration flows and the start of negotiations for the facilitation of the issuance of visas (European Commission Press Release 2014d).

In a similar manner, illustrating the cumbersome technocratic EU approach to movement of people from the neighbourhood countries, in 2014, against a background of the start of the conflict in Ukraine, the EU deemed this country as having implemented sufficient reforms to address the relevant benchmarks and pass the second phase of the implementation of the Visa Liberalisation Action Plan (European Commission MEMO 2015c: 1). The EU also continued another visa-facilitation practice, the issuance of 5-year-long, multiple-entry Schengen visas (European Commission MEMO 2015b: 4) to certain categories of Ukrainians. Nevertheless, when the Visa Facilitation Agreement with Ukraine was amended in mid-2012, on the whole it extended the facilitation provisions to limited categories of people, like journalists or representatives of civil society organizations (European Commission Press Release 2012b: 1). As in the case of Tunisia, the most likely beneficiaries of these amendments are the well-educated sections of the Ukrainian society, which are likely to have a pro-Western outlook. The vast majority of the population, however, would not really experience any meaningful difference, thus arguably obstructing greater people-to-people contacts and maintaining the existing exclusive ENP bordering practices.

The above indicate that the ENP in its current format has limited ability to provide substantial short-term benefits to the partner countries, which endangers the attainment of the policy's goals altogether. Furthermore, this deficiency in the partnership is a plausible explanation for the lack of groundbreaking progress in the EU's relations with the partner countries.

Instead, the ENP provides the EU with a valuable tool for the promotion of its practices, such as the Union's rules and standards. This is in tune with its goal of expanding its global reach through convergence on regulatory issues (European Commission Communication 2010a: 21). This is a third point casting doubt over the mutual beneficence of the ENP, instead suggesting a discrepancy between the declared mutual benefits from the policy and the actual furtherance of the EU's interests, while disregarding those of the neighbourhood countries. This is conducive to transforming European borders by articulating the understanding that 'European' equals EU. This trend, however, is clearly exclusive, creating territorial and identity divisions between the Union and the ENP partner countries.

Furthermore, the idea that the ENP is a tool for furthering the EU's interests brings to the fore traditional geopolitical concerns. Given the Commission's downplay of geopolitics discussed above, this points to a third potential inconsistency in the Commission ENP discourse. In fact, the events in Ukraine in late 2013–early 2014 underscore this contradiction further. They highlight ambiguous Commission articulations on the geopolitical issues implicated in the disagreement. Namely, on the one hand, in accordance with the post-modern external relations conduct, the Commission is at pains to emphasize that Ukrainian relations with the EU do not have to be at Russia's detriment. On the other hand, however, some articulations indicate that Ukraine's choices have geostrategic implications. Moreover, the Commission adhered to the post-modern external relations conduct inconsistently, on the one hand suggesting a belief in the underlying prevalence of cooperation in contemporary international interactions, while on the other, aspects of its behaviour were not conducive to cooperation. In turn, these can be seen as having contributed to resorting to violence for settling the dispute. This contradicts the deeply embedded view of the EU as a project promoting peace, in turn challenging the understanding of the 'Self' associated with it and promoted by the Commission. All of these transform European identity and territorial borders by contributing to the emergence of novel understandings of their meaning and substance.

The following illustrate the ambiguous Commission discourse on the geopolitics of the Ukrainian–EU relationship. Certain articulations concur with the above-discussed assertion in favour of the secondary importance of geopolitics and of the ability to maintain cordial relations with several international partners. These stem from the Commission's understanding that cooperation is the underlying feature of contemporary international

relations. For example, the Commission has articulated milestone agreements in EU–Ukraine relations like the Association Agreement not as geo-strategic ones but as: ‘an agreement on the shared responsibility based on shared values’ (Fúile 2013b: 2). Consequently, the Commission expected Ukraine to sign the DCFTA because it was going to provide Ukraine with access to a much bigger market than any of its neighbours can offer (Fúile 2012c: 2) and because it would allow it to subscribe to ‘long-term modernity and highest political and legal standards’ (Fúile 2012a: 4). Crucially, however, none of this precludes maintaining good relations with Russia as well (cf. Fúile 2011c: 3, 2014a: 4; European Commission MEMO 2013g: 2).

At the same time, other articulations indicate awareness that a closer EU–Ukrainian relationship has geopolitical implications. For example, some Commission documents talk about the signing of the DCFTA as making inroads to the transformation of the Soviet space (Fúile 2011b: 3, 2013b: 2, 2013c: 3, 2013e: 3 refer to the ENP/DCFTA as transformative) or of Ukraine as choosing closer ‘political association and economic integration with the EU’ (Fúile 2012a: 4). Such inconsistencies suggest certain Commission inconclusiveness about the best ways of handling the geopolitical aspects of the relations with the ENP partners. In such circumstances, it would be prudent to conduct one’s external relations with greater emphasis on subtlety and awareness of the considerations of one’s counterparts. Arguably, this is even more the case when a pivotal regional player is increasingly assertive, as was Russia at the end of 2013. Crucially, such an approach can be seen as concurring and conducive to cooperation, a key element of post-modern external relations conduct.

It is precisely on this point that the Commission discourse arguably faltered in the lead up to the protests in Ukraine. More specifically, it observed the technocratic procedures for the signing of the DCFTA with Ukraine, for example, by ensuring that this country had met the necessary benchmarks. However, its attitude towards Russia exposed potential weaknesses. For example, observers like Sakwa have stated that: ‘the European Commission, especially under the leadership of Jose Manuel Barroso, became the epitome of hermetic insensitivity’ (2015: 567). This suggests that the Commission holds some of the responsibility for closing off the avenues for communication between the EU and Russia in the run-up to the Ukrainian signing of the DCFTA. This obstructs cooperation, which is contrary to the behaviour expected of a post-modern external actor like the Commission, thus highlighting an important discrepancy in its articu-

lations. Crucially, this discrepancy has been exacerbated since 2013 as the disagreement in Ukraine led to the eruption of violence.

Given that the immediate trigger of this development was the signing of the DCFTA with the EU and that the Commission played a central role in that process, arguably the events in Ukraine have dented the understanding of the Union ‘Self’ as peaceful. This is the EU’s *raison d’être* and therefore any doubts about this element of the EU’s essence can be detrimental. An illustration of the incorporation of this element of the EU ‘Self’ into the Commission ENP discourse and, therefore, its projection into the neighbourhood is the emphasis on the need for peaceful resolution of conflicts, to be attained by promoting practices like confidence building or funding of programmes facilitating peaceful conflict settlement (Fülle 2013a: 3). Another important point is that this contradiction in the Commission discourse exposes limitations in the cooperative approach to international relations, by providing an instance when the Commission was unable to live up to its rhetoric as articulated under the first reading of the ENP.

Overall, the ambiguous Commission articulations on crucial geopolitical issues contribute to the emergence of salient divisions between the EU and Russia by impacting the specific ways in which the transforming identity and territorial borders in Europe are understood. In distinction to the strived for peaceful and cooperative Europe, what is developed is a continent divided along identity issues; one where the importance of territory is reasserted and where cooperation and peaceful resolution of disagreements cannot be taken for granted.

Silences in the Commission ENP Discourse

Such exclusionary practices that run contrary to the articulated ENP goals raise the question whether the Commission has attempted to overcome them. Arguably, on the whole, at present it has not. More specifically, there is little evidence to suggest that the Commission has attempted to overhaul the incentives offered under the ENP. Instead, it has opted for expanding its own prerogatives in areas of common interest for the member states, promoting existing arrangements in the areas of migration, trade liberalization and the transfer of *acquis communautaire* (Tömmel 2013: 33). This conclusion is reinforced by the fact that the 2011 opportunity to articulate a more radical change in the design and implementation of the ENP was not seized by the Commission. This was a potentially

opportune time for such an attempt as the momentous events in the Arab world coincided with a pre-scheduled review of the ENP. Nevertheless, the Commission failed to suggest a groundbreaking policy overhaul. As the discussion above showed, instead, the key innovations of the discourse were mainly slight reformulations with, on the whole, a secondary significance. This silence is continued in the most recent policy review, although some of the questions posed in the Consultation Paper can lead to innovations (European Commission Communication 2015b: 9).

Therefore, on the whole, it is unlikely that in the near future the problematic exclusionary ENP practices are going to be challenged by the Commission. As in the previous chapters, this silence is largely due to the Commission's inability to attain the support of other actors in the EU policy process (i.e. business groups that influence the positions of their governments) for the adoption of the measures suggested by the ENP critics. More specifically, Haukkala refers to vested interests within the EU, like steel or agricultural lobbies, that obstruct the Commission's ability to open the Union market for the products of the partner countries that are most competitive (2008: 1613). This, however, indicates the Commission's desire for establishing more inclusive regimes, like liberalizing the Union's visa or trade policies. It is other actors in the EU policymaking process that obstruct agreement on establishing more inclusive ENP practices. Ultimately, this entrenches the existing exclusionary practices, obstructing the attainment of the ENP's declared inclusionary goals and leading to the transformation of European borders by the establishment of salient identity and territorial divisions on the continent.³

These emerge because of the insufficiently attractive terms of the ENP at present due to the lack of material incentives (i.e. concrete financial support offered by the EU) or market access. As Haukkala puts it: 'it could well be that neither aid nor trade will be forthcoming from the EU in the coming years' (2008: 1613). This verdict is confirmed indirectly when practitioners like the former Italian Prime Minister D'Alema opine that in practical terms, the EU has to offer its neighbourhood partners major concessions on market access, financial aid and migration policy (2011). Furthermore, in light of the 2008 financial crisis and the ongoing economic difficulties in the Union, especially in the eurozone, it is very unlikely the situation will change for the better in the near future.

Another crucial silence in the Commission ENP articulations has been the absence of enunciations on watershed developments in key Arab Spring countries like Egypt. In distinction to the first silence, discussed

above, this is a novel development in the Commission ENP articulations. There were two important events in Egypt in the summer of 2013 that exemplify this point. The first is the overthrow of President Morsi on 3 July 2013.⁴ One could expect that the Commission would comment on what could rightfully be seen as a historically significant event. This silence is even more surprising given the Commission's repeated assurance (pointed out above) that the Arab Spring countries can rely on support by the institutions and peoples of the EU in their transition period.

One of the ways in which this silence in the Commission discourse can be interpreted is that the Commission itself was not sure about the most appropriate way of referring to the event. Given the complexity of the situation in Egypt at the time, such an interpretation is certainly plausible. Another similarly plausible interpretation is that the Commission remained quiet because it approved of Morsi's overthrow. Both interpretations, however, are problematic from the point of view of border transformations. In the first instance, the silence in the Commission discourse puts a question mark first and foremost over the understanding of the 'Self' enunciated through the ENP documents. More specifically, the declared Commission readiness to support the Arab Spring countries in their transition periods implies that it and the EU are well versed in the matters the Arab Spring countries are likely to encounter problems with (i.e. the establishment of a transparent and accountable political and economic system or the ensuring of freedoms and rights, such as freedom of speech, expression, assembly or protest). Thus, the pronouncement in Commission documents of readiness to support the transitions in the Arab Spring countries reiterates the democratic, open, liberal, transparent and accountable nature of politics and economics in the EU as the key characteristics of the 'Self'. The silence on the events related to Morsi's overthrow, however, challenges this understanding of the 'Self, making it less sustainable.

This has important implications on identity borders, as it blurs the dividing line between the 'Self', the EU, which is versed in practices of democracy, freedom and so on, and the 'Other', the Arab Spring societies. As a result, the distinction between the 'Self', which is stable in the daily implementation of these practices in its political and economic life, and the 'Other', which still has to learn these practices and reinforce their implementation in its political and economic conduct, becomes problematic at best and much less meaningful at worst. In essence, it is conducive to posing the question: why should the Arab Spring societies look up to

the experience of the EU or aim to emulate it in their societies? In a way, this is a humbling silence for the Commission that can be conducive to more equality in the relations with the partner countries, facilitating the emergence of a common identity.

If, on the other hand, the Commission remained silent when Morsi was overthrown due to support for the change of guard in Egypt, this brings up a different set of issues, revolving around the EU's commitment to supporting the transition in this country. Admittedly, in the run-up to the overthrow, there was significant popular discontent with the Muslim Brotherhood leadership of the country. Thus, the act of Morsi's overthrow in itself is difficult to see as an unambiguously undemocratic one. The EU's silence immediately after the events of 3 July 2013, however, can be seen as a missed opportunity to put pressure on the new Egyptian leadership to continue onto the transition path. In turn, this is conducive to prolonging existing differences between the two entities, obstructing the establishment of the inclusive bordering practices articulated in the Commission ENP discourse.

Therefore, under this interpretation, the Commission silence on the overthrow of Morsi prolongs the division between the EU and a key Arab Spring country, reinforcing identity and territorial borders as a result of inability or a lack of desire to put pressure on the new Egyptian leadership to sustain its commitment to the transition started in February 2011. Given the strong suspicions of some over the Western actors' commitment to seeing through successful transition in the Arab Spring countries (exemplified, for example, by Achcar 2013: ch. 3), such absences are potentially very damaging. This makes the Commission silence on the second crucial event in Egypt in the summer of 2013, the crackdown against Morsi supporters in August 2013,⁵ all the more important. It not only provided ammunition to those accusing the West, and the EU more specifically, of double standards in their dealings with the Middle Eastern countries, but also enabled the consolidation of power by the new leadership in Egypt. Crucially, this is a leadership which the EU has since criticized about its clampdown on protesters and about its overall record of reducing the space for expression of discontent (European Commission Joint Staff Working Document 2015: 2–3). Therefore, the Commission discourse silence on the developments in Egypt in the summer of 2013 can be read as a missed opportunity to demonstrate unequivocal support for the transition to a more open and accountable system there. In turn, this contributes to the reinforcement of practices conducive to the existence of territorial and identity borders between the EU and this Arab Spring country.

SUMMARY

This chapter looked at the bordering implications of an external EU policy, the ENP. Given the position of states as *the* actors in international relations, the borders articulated by a novel international player are by definition transformational, impacting on continental, European borders. Therefore, the focus of the chapter has been on shedding light on the particular practices emerging from the Commission ENP discourse, thus elucidating further the meaning of the current borders transformation by clarifying the nature and functions of borders in Europe.

In concurrence with the findings of other studies on the ENP, the chapter showed that there is a complicated, even contradictory dynamic between inclusion and exclusion in the Commission ENP discourse. At face value, the Commission documents promote the establishment of a common space between the EU and its partner countries. This would mean eradication of current territorial, identity and legal borders between the actors involved. In the pursuit of this goal, the Commission relies on, utilizes and promotes key elements of the post-modern conduct of external relations. However, a critical engagement with the Commission articulations revealed significant contradictions and silences. These are contrary to the stated goals of the ENP, promoting exclusionary practices in the Commission conduct of external relations. Consequently, these create identity and territorial borders. For example, some enunciations articulate a difference between the EU ‘Self’ and the partner countries ‘Other’. Crucially, given the EU’s international clout, this is conducive to equating ‘European’ with the EU, a problematic development. Furthermore, many of the Commission’s actual measures under the ENP create a salient border at the external edges of the EU, thus transforming territorial borders. As demonstrated in the chapter, some of these exclusionary practices are due to the Commission’s limitations in its adherence to the post-modern external relations conduct and a fall back to a traditional one instead.

NOTES

1. Following Russia’s decline to participate in the policy, the EU has conducted its relations with it in a separate format, referred to as a special relationship. Under it, relations are conducted along four common areas. Cf. Smith (2005: 759).

2. When the Arab uprisings started, the EU had already begun a scheduled review of the ENP. The beginning of the protests in the Arab world, however, provided an opportunity for greater critical reflection and more radical reformulation of the policy.
3. This argument is based on a point about the Commission role in the ENP policymaking process made in Barbe and Johansson-Nogues (2008: 91).
4. The identification of this absence is based on the documents available at <http://europa.eu/rapid/search-result.htm?page=41&subQuery=52&format=HTML&size=10&locale=EN>, accessed on 28 August 2015. A search through the releases in the first few days following Morsi's overthrow shows a lack of Commission statements on this issue.
5. This is based on the documents available on <http://europa.eu/rapid/search-result.htm?page=41&subQuery=52&format=HTML&size=10&locale=EN>, accessed on 28 August 2015.

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Conclusion

This study started from the observation that instead of disappearing, as some expected in the early 1990s, borders have been transforming. In other words, opposite to the expectation of the emergence of a borderless world, today we are witnessing complex and at times contradictory changes in the processes regulating inclusion and exclusion. Integration has been among the key contributors to these shifts, facilitating the vacillation of borders. In light of these, this study focused on examining the contribution to border transformations of a novel institution that has become an important player in the most advanced integration project, the European Commission. This enabled highlighting two crucial issues. Firstly, it made possible an engagement with the specific characteristics of the newly emerging borders, thus outlining their nature and functions. Secondly, it allowed probing the specific Commission contribution to the border-transforming processes, thus illuminating the role played by this novel actor to the relevant processes. In addressing these matters, the study builds on and contributes to academic debates on EU borders and on the borders–order nexus. It also provides an example of utilizing a particular approach to discourse analysis, the double reading technique, in European studies.

The probing of the characteristics of the newly emerging borders engages with the debate about the evolution of borders in various historical periods. In the medieval world, there were overlapping authorities,

which led to the existence of more porous and less clearly delineated borders. In the modern period, however, when the nation state became the dominant actor, borders were demarcating clearly defined, discrete sovereign units. These led to the establishment of highly visible and impermeable borders. This prompted scholars to compare the state to a container enclosing human interactions (Taylor 1994). In turn, this meant that in the modern era the main types of borders identified by scholars—territorial, functional and identity ones—were highly visible and difficult to cross state borders.

As the academic debate on EU borders clearly shows, however, the process of integration is increasingly challenging these modern borders. Nevertheless, the review of key contributions to this literature showed a lack of agreement over the precise effects integration has on borders. While some emphasize the fuzziness of EU borders, others point out their sharpness. This suggests, firstly, that the transforming Union borders display characteristics of both the modern and the medieval orders, which was denoted through the term ‘post-modern’. Consequently, secondly, the transforming EU bordering practices mean that processes of both de-bordering and border-creation are taking place. Crucially, border-creation can have two aspects. On the one hand, it occurs through the delineation of the EU as a discrete entity vis-à-vis other players. This prompts the establishment of external EU borders. On the other hand, given the incompleteness of de-bordering within the EU, novel borders emerge inside the Union. This means that with reference to all three key types of borders (territorial, functional and identity), one can expect de-bordering, creation of external EU borders and/or recreation of internal Union borders. The detailed examination of the Commission’s contribution to the parallel occurrence of all these processes is the major contribution of this study to the debates on EU borders. Furthermore, this allows highlighting key features of the nature and functions of the emerging post-modern borders, thus contributing to the debates on the borders–orders nexus.

To that end, and in light of the study’s focus on the European Commission contribution to the transformation of borders, Chap. 1 presented several pertinent academic controversies and clarified this study’s take on them. Firstly, it looked at the meta-theoretical discussions about what borders are and the best ways for studying them. It clarified the social constructivist approach to borders taken by this study and explained in detail the way the relevant concepts are employed in the empirical chapters. Furthermore, it outlined how each type of EU border is enunciated,

thus providing the necessary background to the discussion in the empirical chapters.

Secondly, the debates about the European Commission role and influence on the integration process were scrutinized. This outlined the key tools at the Commission's disposal for influencing the transformation of EU borders, as well as the key limits it faces in the Union policy processes. More specifically, these are the particular governance arrangements in a given policy area, which clarify the Commission prerogatives in that field; the checks and balances by other institutions, like the CoM, which require reaching mutually acceptable decisions; and the tactical Commission behaviour. In practice, the last one can lead to undertakings with diverse effects on the nature and functions of the transforming EU borders. On the one hand, the Commission can decide to stay silent on certain issues, if it thinks that at present it will not be able to see through a successful adoption a particular measure. As the discussion in the empirical chapters shows, this usually leads to the recreation of internal EU borders. On the other hand, however, the Commission is a skilful actor with a vested interest and intimate involvement in the Union policy process. Therefore, at times, it is a successful policy entrepreneur that has worked towards de-bordering, the establishment of a common space in the EU. Chapters 2 and 3 provided specific examples of this, namely through the Commission's championing of the principle of free movement across borders as within a state in the late 1980s and more recently through the cultivated spillover on immigration measures like the Blue Card Initiative or the introduction of compulsory relocation quotas in the context of the refugee crisis.

The engagement with these debates allowed developing the framework for the analysis in the subsequent chapters. This was advanced further through outlining the methodology of the study, which explained in detail how the relevant Commission documents on which the analysis in the empirical chapters rests were selected and examined. The methodology clarified the time period of the study and the types of Commission documents scrutinized. Also, it spelled out some limitations to the research design, which among other things suggested ideas for future research. The methodology section also presented the double-reading technique, the lens through which the documents were interpreted. This approach was used because it allows assessing the multifaceted Commission contribution to the evolving EU inclusion/exclusion dynamics following a social constructivist understanding of borders.

Chapters 2, 3, 4 and 5 conducted the empirical analysis. They examine in detail the Commission contribution to the transformation of EU borders by considering key aspects in the development of the emerging Union migration regime. Given its multipolicy implications, the discussion is organized along policy lines, looking at the transformation of borders in the fields of border controls, more broad arrangements for the free movement of people, social policy and external relations. This selection of policies enables illumination of the changes in both easily observable and more obscure bordering practices of all main types of borders, territorial, functional, identity. This allows the advancement of a comprehensive picture of the Commission contribution to border transformations. Nevertheless, given the practical interrelations of policy measures, at times there are close connections between the policy issues examined. In turn, this means that the distinctions are drawn for analytical purposes, to facilitate the study's investigations.

The analysis in the empirical chapters provides answers to the key research questions outlined in Chap. 1. Crucially, there are some important similarities in the Commission contribution to the transformation of EU borders. Nevertheless, at times there are also some differences in the articulations. A key similarity is that in all policy areas examined, the Commission enunciates ambiguous borders, which in turn facilitates the emergence of the post-modern order. More specifically, at face value, the Commission discourse promotes the emergence of a common EU space, a goal that is pursued via a diverse range of policy measures. There are two key rationales for these inclusive, de-bordering practices. Firstly, this is the attainment of the internal market and the subsequent need to establish a level playing field that precludes market distortions (border controls, FMP or social policy). Secondly, inclusion is pursued as a result of the drive in post-modern external relations towards the spread of the EU normative framework in its neighbourhood. Furthermore, in all four policy areas, the Commission articulations construct and reconstruct borders, thus leading to the emergence of EU external borders and to the recreation of internal divisions in the Union. Overall, the Union's external borders come about as a by-product of internal de-bordering processes, which enable the Commission to advocate the undertaking of EU-level actions; for example, for achieving greater efficiency or because of a perceived loss of security. For their part, internal EU borders are articulated through contradictions and silences in the relevant policy discourses.

However, there are also some important differences in the articulation of the EU's internal and external borders. Firstly, when it comes to external borders, in the field of border controls, the Commission talks about the EU's outer edges explicitly. This is in sharp contrast to the indirect articulation of external borders in the other policy fields. Consequently, the construction of EU external borders in the field of border controls formed part of the first reading, while it was part of the second reading in the other policy areas. Nevertheless, the rationales for the articulation of these borders were similar, boiling down to addressing perceived threats or practical issues arising from the gradual establishment of an EU migration regime. The Commission articulations pertaining to the former are conducive to the establishment of identity borders, spelling out a specific meaning for the EU 'Self' and articulating a number of 'Others' ranging from advanced economies like that of the USA to emerging economies to illegal immigrants or soft security threats more generally.

For their part, internal EU borders are recreated through several different trends in the Commission articulations. The first one is illustrated by the border controls articulations where some of the contradictions in the Commission enunciations are a result of an acceptance of the premises of the current policy design and conduct. More specifically, as was pointed out in Chap. 2, at present the Commission discourse privileges security at the expense of adherence to the proclaimed EU practice of observance of human rights or individual freedoms. In other cases, however, the Commission arguably does not agree with the current policy design but is unable to challenge its premise successfully at present. The contradictions and silences in the Commission discourse in the fields of border controls, FMP and social policy provide examples of that. In these instances, internal EU borders are recreated through continued relevance of national divisions within the Union due to the Commission's inability at present to overcome the limitation it faces by the member states in the governance of a particular policy area. Besides reaffirming national territorial, functional and/or identity borders, thus prolonging the existence of traditional borders, at times such recreation of borders contributes to the emergence of novel types of distinctions, like EU nationals, TCNs or divisions between rich and poor. Therefore, these exclusionary practices also contribute to the transformation of borders, changing their nature and functions.

Some of the key features of the changing borders in the EU, in terms of their nature and functions, identified through the analysis in the empirical

chapters are their technocratic character, their selective nature and the greater shallowness and precariousness of EU identity borders in comparison to traditional ones. The last characteristic was identified in Chap. 4 as a result of the specific features of the design and evolution of the EU's social dimension. It has made impossible (so far) the establishment of an EU welfare system. The significance of social welfare systems is underscored through the crucial role they played in the emergence and embedding of national identity when traditional borders were being established. Thus, the lack of such systems at EU levels contributes to the establishment of the specific features of post-modern identity borders.

Chapters 2 and 3 highlighted especially well the selectivity of EU borders. This comes about not only through the gradual establishment of a meaningful distinction in the rights to movement within the Union between EU nationals and TCNs but also through the implementation of particular measures that allow or obstruct the crossing of internal and external EU borders by certain individuals. As Chap. 2 showed, when it comes to border controls, the EU has gradually established sophisticated ways for filtering wanted from unwanted TCNs when they cross the external borders of the Union. Crucially, as Chap. 3 demonstrated, such barriers exist even for EU nationals through the obstacles for free movement for more than six months to another member state of individuals relying on social assistance. Such measures reconstruct not only identity borders but also territorial and functional borders and vest them with distinctive characteristics, given the novel ways in which they perform the inclusion/exclusion differentiations.

One of the key developments that have enabled the emergence of these novel features in the nature and functions of the transforming EU borders is recent technological advances. Among other things, these have made possible the launching of the hi-tech Union databases for exchange of information between the member states. Building on the Commission role and prerogatives within the EU policy processes, such developments have reinforced the technocratic element in the Commission contribution to border transformations. Chapters 2 and 5 provided further illustration of this feature of the Commission contribution to the relevant processes. As the latter argued, in the field of external relations, the technocratic nature of the Commission engagement has a very significant potential weakness. Namely, following the established procedural rules in a post-modern external relations environment that privileges cooperation and downplays geopolitics can paradoxically lead to the emergence of confrontation, even

violent conflict. Such a development is contrary to the EU's understanding of the 'Self' and its promotion of peace on the European continent. Yet arguably, the Commission post-modern and technocratic external relations conduct in the face of resurgent Russia was a contributing factor to the start of the violent conflict in Ukraine in 2014. Such a development can halt border transformations not only in the area of external relations but can spill over to other areas as well. Therefore, in tune with the social constructivist understanding of borders, the yet incomplete transition from traditional to post-modern borders has chapters that are still to be written. It remains to be seen what exactly the Commission contribution to these will be and how they will alter the nature and functions of the bordering practices in future.

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