The Making (Sense) of EUROSUR: How to Control the Sea Borders?

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1 Introduction

> Space is a doubt: I have constantly to mark it, to designate it. It's never mine, never given to me, I have to conquer it. (Perec 1997[1974]: 91)

The Mediterranean Sea is considered a symbolic and material site of major political issues concerning, inter alia: migration, human rights, foreign policy and European internal and external cooperation. The debates triggered by specific, and often tragic, events are mirrored by European Union (EU) and national operations that generally tackle this political space as if it were a border to be (more) efficiently patrolled. Hence, the Mediterranean Sea becomes, at the same time, a political and a controlled space, at least from a European perspective.

In this chapter, we aim at advancing an analysis of the *making (sense) of* the Mediterranean Sea as space deemed, by EU and Member States authorities, to be controlled. We focus on the set up of a specific EU project: the European Border Surveillance System, widely known as EUROSUR. EUROSUR is an information-exchange framework that aims to improve the management of Europe's external borders. It is designed to become the centrepiece of Frontex's surveillance and intervention capabilities. The stated purpose of the system is:

> the surveillance of land and sea external borders, including the monitoring, detection, identification, tracking, prevention and interception of unauthorized border crossings for

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> the purpose of detecting, preventing and combating illegal immigration and cross-border crime and contributing to ensuring the protection and saving the lives of migrants. (EU OJ 2013: Art. 2(1))

While the geographical goal of this high-tech system goes well beyond the Mediterranean Sea, this space has been its initial main focus and a particularly important referent during its creation. Officially, EUROSUR has been launched immediately after the adoption of the related regulation, in December 2013 (EU OJ 2013), and it is progressively including Member States and Schengen countries (Frontex 2014b; Rijpma and Vermeulen 2015). To date, very little is publicly known about its operative status, and it is hard to say what its everyday role in the fabrication and management of a controlled space is. Yet, we can already study the different steps that brought it into being, at least as a legislatively backed program. We can understand how EUROSUR contributes to constitute the Mediterranean Sea as a space of control—what we call the "making of". Relying on few elements of information provided by Frontex, such as brief descriptions of operational trials (i.e., Frontex 2015b), we can also carry out an analysis of its operations: we can understand how EUROSUR may offer the tool-box to better understand the same controlled space—what we propose to call the 'making sense of'. Hence, even if from a limited perspective, we believe that this case study permits to provide a better account of a *methodology* of control.

We argue that the making of the sea borders operated by EUROSUR is, first and foremost, an effort to make sense of a disparate and heterogeneous ensemble of elements. This controlled space does not only concentrate on and encompass potential migrants, small vessels of smugglers, and international networks of criminals. This kind of border surveillance is also, at the same time, and somehow prominently, an effort to understand and maximize the potential use of different elements—radars, national authorities, boats, information analysis systems, etc.—already deployed for border surveillance. Hence, the set up of a surveillance system is both a matter of material and symbolic controls, and a continuous effort of *mise-en-discour*s of protean elements. It is an attempted and continuous mustering of things, people, information, institutions, programs, and research. Therefore, the construction of a controlled space emerges as a dynamic, non-linear practice: not a mere site of surveillance and prohibition, but rather the set up and the articulation of enacting processes. In other words, a controlled space is a sort of productive ambition, in which all elements, both the controlled and the controlling ones, have to *make sense*, have to be rendered intelligible in order to contribute to the understanding of others. From this perspective, what is at stake in the relation between a controlled and a political space is not only the closure of the latter, but also the potential influence that the methodology of the former may have on the definition of the political issues.

In the next sections of this chapter, we first contextualize our research in relation to existing scientific literature and we present our specific research approach. Then, we briefly introduce the EUROSUR project in its EU institutional background, and we critically focus on the ways in which political goals are supposed to be achieved.

Afterward, we describe and discuss its methodology of control through the description of two sets of programmed operations. We finally present and analyze the technical and political debates concerning the feasibility of the project and, in the conclusions, we further elaborate on the *makings* of EUROSUR and the potential influence of its control methodology in the shaping of the Mediterranean Sea as a political space.

2 Borders, Technologies, and Methods

The case of EUROSUR offers the opportunity to explore the on-going re-definition of a traditional space of control: the border. Indeed, a certain consensus in both the academia and the policy-making field is growing around the idea that borders have not disappeared within globalization, but rather have undergone important transformations (Brown 2010; European Council 2010; Foucher 2007; Walters 2006). This renewed interest in borders tends to emphasize the different processes of de-bordering and re-bordering rather than their fixed, univocal forms (Newman 2006; Wilson and Donnan 2012). In particular, European and North American project on biometrics databases, automated document and identity controls, or passengers' risk-assessment have attracted the attention of researchers of critical security studies, surveillance studies, law and critical geography. Yet, while the EUROSUR project has been the object of several political debates at institutional level, and despite the fact it is supposed to become the backbone of Frontex's operations at sea, only few academic publications have engaged frontally with it (Duez and Bellanova 2014; Gabrielsen Jumbert 2012; Jeandesboz 2011; Rijpma and Vermeulen 2015).

So far, the most important transformations highlighted by scholars revolve around the borders' technological density and its effects on their spatial and temporal dimensions, their modes of operation, their referent objects and the actors concerned (i.e., Amoore 2006; Bigo and Guild 2005b). Still, in many of these accounts, technologies are taken as a 'given', a linear and powerful implementation of a will to govern and control individuals and societies. Moreover, the making sense under scrutiny is generally limited to the one operated on individuals, and not on 'things' (Aas 2011; Epstein 2007). Also, little attention is dedicated to the very articulation of the controlling elements, and their difficult implementation well beyond failures and errors (Bigo 2014; Leese and Koenigseder 2015).

To better account for the multiple efforts of making sense of different elements—humans and nonhumans—our methodology takes inspiration from Foucauldian works and from insights offered by the sociology of the translation—more widely known as actor-network-theory (ANT). We operationalize our analysis on the premises of two loose and related ANT notions: *setting* and *actant*. The first postulates that:

> [a] machine can no more be studied than a human, because what the analyst is faced with are assemblies of human and nonhuman actants where the competences and performances

> are distributed; the object of analysis is called a setting or a setup (Akrich and Latour 1992: 259).

This definition does not curtail in advance the type and quantity of elements at stake. It also obliges us to consider both linguistic and material aspects, without, by default, privileging the former over the latter. As explicitly mentioned, all elements should be considered actants, agents participating to the action even if not automatically endorsed with intentionality. Indeed, "*any thing* that does modify a state of affairs by making a difference is an actor–or, if it has no figuration yet, an actant [. . .] [t]his, of course, does not mean that these participants 'determine' the action [. . .] things might authorize, allow, afford, encourage, permit, suggest, influence, block, render possible, forbid, and so on" (Latour 2005: 71–72, emphasis in original).

The notions of setting and actant provide the tools to translate the Foucauldian emphasis on situated processes of power deployment (Foucault 1980(1976): 92–108) into an analytical description of the emergence of a program of government. In particular, through these two ANT notions we aim to engage anew with "programs, technologies, apparatuses", which both "inform individual behavior [and] act as grids for the perception and evaluation of things" (Foucault, 2003: 253–54). In this sense, we further build on the notion of *dispositifs*: these are not to be considered only as research objects which are "thoroughly heterogeneous ensemble[s]" (Foucault 1980(1977): 194), but also as methods, developed by researchers and actors alike. The main merit of the notion of setting is that it translates the attention to heterogeneity into a more practical research agenda, while the notion of actant highlights the different roles that very different elements come to play through the dispositifs. However, we still need Foucault's dispositifs to appreciate the *epistemic* dimension running through the "assemblies of human and nonhuman actants" (Akrich and Latour 1992: 259), and thus to cast a light on the double functioning of a program of control as both an apparatus and a methodology.

At the current stage of our research on EUROSUR, our approach translates into a focus on (publicly available) primary sources and documentation—impact assessments, studies, legislative proposals, road maps, reports, interviews—as well as into a stronger attention towards the description of the foreseen functioning of 'mundane' operations—information exchanges, creation of situational pictures, etc. We read, or better: de-scribe, these sources to retrace how a space of control is programmed through the tentative construction of a setting. Obviously, it should be acknowledged that proposing a new method is out of the scope of this contribution. We are all too conscious that this study represents only one of the steps needed to better grasp the role of both humans and nonhumans in border practices. Only a research that includes direct observation of the ways in which EUROSUR operations are routinely performed would permit to test, adjust and strengthen our own research *dispositif*. Furthermore, the recourse to Foucault's works in this research field is certainly not a novelty (cf. Bigo 2006; Lyon 2007; Walters 2006). Besides, several scholars have already taken inspiration from ANT literature

to advance their own accounts of the role of technologies and materialities (cf. Barry 2001; Dijstembloem and Broeders 2014; Schouten 2014). Nevertheless, we believe that few elements from ANT and a return to the multiple functions of dispositifs can further enrich many Foucauldian approaches concerned with technologies and surveillance, especially for what concerns the exploration of the tension between political and controlled landscapes.

3 The EUROSUR Project

On 13 February 2008, the European Commission tabled what has been called, in the Community jargon, a 'Border Package'. This package consisted of three communications relating to integrated management of European external borders. This package was understood as an important step in a process that had already begun 7 years earlier, at the Laeken European Council in December 2001. Following the 11 September 2001 terrorist attacks, European governments and heads of state had made a solemn declaration that "[b]etter management of the Union's external border controls will help in the fight against terrorism, illegal immigration networks and the traffic in human beings" (European Council 2001: point 42). Border control was thus set very high in the political priorities of the Union.

In the Border Package, EUROSUR was granted its own communication entitled "Examining the creation of a European Border Surveillance System (EUROSUR)" (European Commission 2008c).[1] The aim of the communication was "to examine the parameters within which a European Border Surveillance System (EUROSUR), focusing initially on the southern and eastern external borders of the EU, could be developed and to suggest to Member States a roadmap for the setting up of such a system" (European Commission 2008c: 2). The immediate background of this new program was to be found in the allegedly successful implementation of the Spanish SIVE (*Sistema Integrado de Vigilencia Exterior*) along the coast of Andalusia and later in the Canary Islands. Gradually implemented by the Spanish government by means of fixed and mobile radars and sensors, the system was said, according to Spain's *Guardia Civil*, to have put an end to illegal border crossings in the Gibraltar Straight (Espinosas Navas 2003). Even if exaggerate—nearly 8000 irregular migrants were detected off the Spanish coast in 2014 (Frontex 2015a: 16)—such a claim seems to have been confirmed by subsequent evolutions in migratory routes. Within few years most of irregular border crossings shift from the Western African and Western Mediterranean routes to the Central Mediterranean route, and, eventually, the Eastern Mediterranean and Western Balkan routes.

At the end of 2011, the European Commission released a proposal for a regulation "establishing" EUROSUR (European Commission 2011c; Rijpma and Vermeulen 2015: 461–64)[2]. In the words of one of the Commission officials

[1] Hereinafter: 2008 EUROSUR Communication, or: road-map.

[2] Hereinafter: draft regulation, or: 2011 draft regulation.

responsible for this project, the 2011 draft regulation "is the result of [dozens of meetings, studies or external contractors, official documents], summarising 1500 pages of technical specifications in 21 articles" (PERSEUS Newsletter 2012: 5). Therefore, even if the draft regulation does not imply, per se, the finalization of the EUROSUR project at practical level, its text and the annexed impact assessment documents, permit an exploration of certain dynamics and solutions advanced so far. Our analysis mainly focuses on the EUROSUR draft regulation, as well as the text of the regulation finally adopted by the European Parliament on the 9th October 2013 (EU OJ 2013)[3], only 1 week after the death of hundreds migrants after a boat carrying them to Europe sank off the southern Italian island of Lampedusa.

To an even greater extent than the development of other European technological tools for border checks, such as the entry/exit system (EES), the Registered Travellers Programme (RTP) or the Electronic System for Travel Authorisation (ESTA)[4], the development of EUROSUR is revealing with regard to the trend towards the increasing role played by technology in border control at EU level. Based upon the principle of interconnecting already existing monitoring systems in the various Member States, the goal of EUROSUR is to eventually provide a shared technical environment enabling the rationalization of cooperation and communication between the relevant national authorities. The main aim of this sort of "system of systems" (European Commission 2008c: 9) is to facilitate the use of advanced technology in border monitoring.

Politically speaking, EUROSUR is a response to three different but interconnected goals (European Commission 2008c: 3–4). Firstly, EUROSUR aims to reduce the number of 'illegal' immigrants who enter the European Union undetected. The system should provide authorities responsible for border control in the Member States with more timely and reliable information. This timely information would allow them to detect, identify and intercept those attempting to enter the EU 'illegally'. Secondly, EUROSUR is supposed to increase the internal security of the EU as a whole by contributing to the prevention of cross-border crime. Consistently with the 2001 Laeken Declaration and Frontex's missions, border surveillance has not only the purpose to prevent unauthorized border crossings, but also to counter cross-border crime such as the prevention of terrorism, trafficking in human beings, drug smuggling, illicit arms trafficking, etc. Finally, in the context of increasing illegal crossings on board of unseaworthy and overcrowded boats triggered by the Arab Springs and the war in Syria, and resulting in thousands of migrants drowning in the Mediterranean Sea (Last and Spijkerboer 2014), EUROSUR is designed to reduce the number of deaths of illegal immigrants by saving more lives at sea. The capacity to detect boats in the sea is seen as

[3] Hereinafter: EUROSUR regulation, or: regulation.

[4] Parts of the Integrated Border Management strategy (IBM), the registered travellers programme (RTP) and the Electronic System for Travel Autorisation (ESTA) aim to facilitate border crossings for frequent, pre-vetted and pre-screened third country travellers. The entry/exit system (EES) should enable electronic registration of information on dates and places of entry of non-EU Member Country nationals and of the dates notified for exit from the Schengen area.

contributing to greater chances of search and rescue and thereby saving more lives (European Commission 2013a). Though, this humanitarian objective is much more frequently put forward by the Commission than by the Member States (European Commission 2013a, b, 2015), and can be considered at best "just one of the secondary aims of EUROSUR" (Rijpma and Vermeulen 2015: 467). For instance, not a single word of the statement following the Special meeting of the European Council of 23 April 2015 which aim was to prevent further loss of life at sea was dedicated to the third dimension of EUROSUR (European Council 2015). Two months later, the European Council of 25 and 26 June 2015 adopted the new European Agenda on Migration tabled by the Commission, which briefly mentions EUROSUR as a promising system for "[i]dentifying risk trends" (European Commission 2015: 11).

4 *Situational Awareness* and *Reaction Capability* at the External Borders of the EU

To achieve the said goals, the 2008 EUROSUR communication states that

> [a] European Border Surveillance System—EUROSUR—should support the Member States in reaching full *situational awareness* on the situation at their external borders and increase the *reaction capability* of their law enforcement authorities (European Commission 2008c:4 emphasis in original).

The terms *situational awareness* and *reaction capability* are conceptualized by the same Commission document as metrics. The former "measures how the authorities are capable of detecting cross-border movements and finding reasoned grounds for control measures" while the latter "measures the lapse of time required to reach any cross-border movement to be controlled and also the time and the means to react adequately to unusual circumstances" (European Commission 2008c: 4). Thus, it is interesting to note how the very general concept of EUROSUR translates de facto political goals—migration flows control, internal security and humanitarian intervention—into measurable performances which would in turn orientate the actions of socio-technical assemblages. Indeed, such a framework of control should be set up without affecting the respective areas of jurisdiction of Member States nor harmonizing or replacing any existing systems. As mentioned above, a key operational objective should be to interlink different systems, not creating a new one, while paying attention to geographical circumstances and differences between types of borders, in particular between land and maritime borders (European Commission 2008b: 4).

Interestingly, not only the space dimensions are of particular concern for the Commission, but rather the possibility to "maintain control over" them despite their challenging "nature". The temporal dimension becomes the other key element, which allows for the measurement of situational awareness and the time lapse for intervention, but also for the "quality" and relevance of the intervention, that mostly requires "near to real-time" decision making. The ability to manage both spatial and

temporal dimensions is what enables forms of "control at a distance" (Bigo and Guild 2005a), but in the EUROSUR project what is particularly interesting is that such control at a distance is clearly understood in its complexity, as the fruit of multiple mediations among and actions of different heterogeneous elements. For example, the communication takes into account the lack of a unique point of decision-making which means to design the overall architecture as to include the time needed to co-ordinate it (without establishing any central database); it also identifies the possibilities and constraints of specific nonhuman elements to modify the relations between space and time in specific conditions (what are generally called "surveillance tools"); and implicitly takes into account the different meaning that the same information can acquire in different centers of decision. Such an awareness of the non-linearity and complexity of EUROSUR objectives and ambitions is made clear in the translation of the "general policy objectives" into "specific and operational policy objectives" in the text of the 2008 EUROSUR Impact Assessment (European Commission 2008a: 17–18), as well as in the specific design of the proposed setting. Indeed, one of the main features of EUROSUR is that it is presented as a project to be implemented in three different phases:

> [i] [u]pgrading and extending national border surveillance systems and interlinking national infrastructures in a communication network; [ii] [t]argeting research and development to improve the performance of surveillance tools and sensors [. . .], and developing a common application of surveillance tools [. . .]; [iii] [a]ll relevant data from national surveillance, new surveillance tools, European and international reporting systems and intelligence sources should be gathered, analysed and disseminated in a structured manner, to create a common information sharing environment between the relevant national authorities (European Commission 2008c: 5).

Furthermore, these three phases, the first two of which should be implemented in parallel, are composed of eight specific and different "steps", which range from the provision of border surveillance infrastructure at Member States' level to "research and development to improve the performance of surveillance tools", or to the establishment of an "integrated network of reporting and surveillance systems for the whole EU maritime domain" (European Commission 2008c: 5–10 and 12).

Somehow, EUROSUR can also be understood as a series of technical fixes to shortcut juridical or administrative efforts of harmonization/substitution, thus reducing the emergence of political issues in its own implementation. EUROSUR, then, would reflect a trend that has been noted by various authors (Brouwer 2008; Jeandesboz 2011), namely the tendency to seek agreement over initiatives that are deemed 'technical' in the face of persistent struggles in domains considered by Member States' governments as sovereign matters.

While this analysis provides a powerful account of the strategic role regarding the *making of* EUROSUR, it tends to overlook the (actual or future) presence of many more acting elements, as well as their operations. Thus, it keeps the participation in politics mostly limited to classical human institutions and risks losing sight of other possible sites of politics. A first possible list of EUROSUR relevant actants, or components as they are labeled in the words of the Commission, is

provided in the first chapter of the 2011 draft regulation (European Commission 2011c: 9–12—Art. 4–7). They are both nonhuman and human elements, and, when we take into consideration also the rest of the Commission documentation (e.g., the 2008 and 2011 impact assessments: European Commission 2008a, 2011b), we can establish an even wider and more composite ensemble of actants, including, *inter alia*, platform for information exchange and 24/7 communication systems; satellites and satellites' high resolution data; unmanned aerial vehicles; mobile and fixed sensors; vessels and boats; private companies, national and European experts' groups; different national authorities, including National Coordination Centers (NCCs); research institutes; third countries; migrants and migrants' smugglers; commercial crews; reports; studies; risk-analysis.

To an important degree, both the effective *making of* EUROSUR and its ability of *making sense of* what is happening at the external borders are based on the relations established between this heterogeneous group of actors. The critical question thus concerns less the ability to merely un-veil institutional struggles in the policy-making, than the ability to understand the articulations proposed and their consequences on the overture and closure of the political space.

5 Two Programmed Sets of Operations

Situational awareness and reaction capability are translated, and enacted in the text of the 2011 draft regulation by two sets of operations. This can be considered the core of the program inscribed into the EUROSUR dispositif. As the analytical description below highlights, the term *program* should be understood both as a plan to follow, and as a software processing information.

For what concerns situational awareness, the relevant set concerns the production of *situational pictures*. Three types of pictures are foreseen: the National Situational Picture, the European Situational Picture and the Common Pre-Frontier Intelligence Picture (European Commission 2011c: 12–17—Art. 9–11). The structure of the three pictures is similar: each is organized in three main layers—events, operational, and analysis layers—further composed by sub-layers. Information is pooled there from sources as different as: "national border surveillance systems"; "stationary and mobile sensors operated by national authorities"; "patrols on border surveillance and other monitoring missions"; FRONTEX; "regional networks"; "ship monitoring system"; "European and international organisations" (European Commission 2011c: 12–17—Art. 9–11). The information includes elements as different as: "key developments and indicators relevant for the analysis of irregular migration and cross-border crime", "risk rating trends", "migrant profiles, routes, information on the impact levels attributed", "information with regard to natural and man-made disasters", "own assets" deployed in border areas; "geo-referenced data"; etc. (European Commission 2011c: 12–17—Art. 9–11). Apart from this feeding coming from the 'outside', there are also exchanges among the three types of pictures, and between different national pictures. It is important to note that not all potentially available

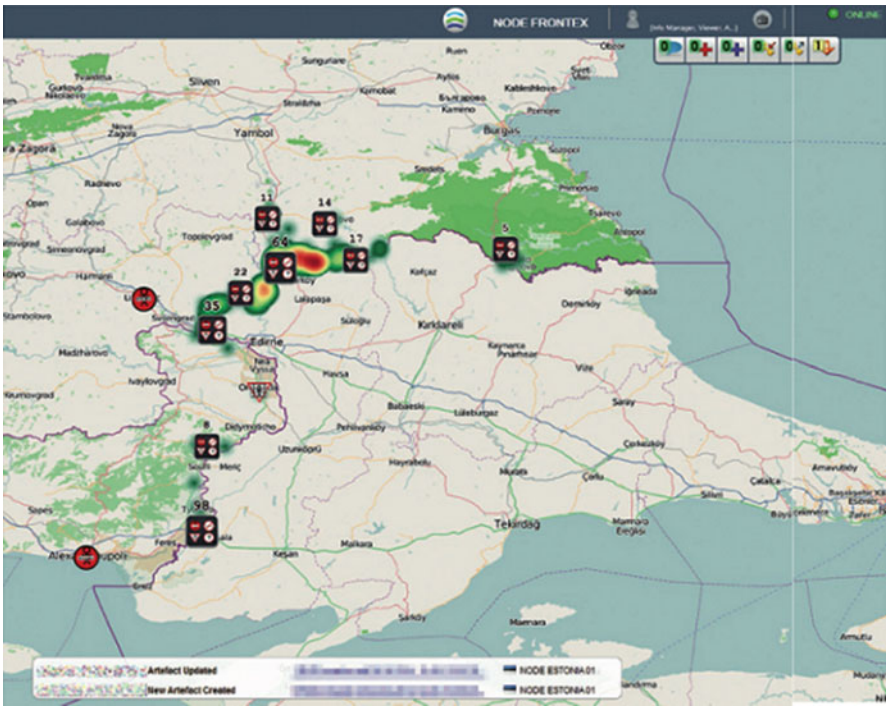

Fig. 1 The so-called "Eurosur user interface" as presented in Frontex (2014a)

information is simultaneously exchanged to all competent authorities or NCCs. Only the information which is either relevant for geographical proximity, or which reaches a specific level of alert is circulated. In this sense, the pooling of information is a real process of mediation, as the information is often partially processed before dissemination.

No formal explanation is provided in the text of the 2013 EUROSUR regulation on how this information, and the multiple pictures, will be effectively projected on the screens of the NCCs' control rooms. According to an off-the-record interview with Commission officials,[5] information will be screened on a map of Europe, in which symbols will signal the different elements, and the operators will be able to access and filter the associated information. According to the same interview, situational pictures are not, per se, a novelty in the surveillance practice of national authorities, as they are already created and screened in their centers. Hence, the specificity of EUROSUR is to streamline the way in which information is pooled, distributed and represented, and to enrich and tune its feeding. This description

[5] Off-the-record interview with DG-Home officials held on the 10th May 2012, in Brussels.

seems to be largely confirmed by the few photos provided by Frontex (cf. Fig. 1 below).

Both the continuous construction and the screening of situational pictures are a powerful example of the different declinations of *making sense of*. Not only do they contribute to making sense of still-to-be fully determined elements, but they also render different strands of information intelligible by evaluating their relevance and impact and by distributing them in a targeted way. Furthermore, when they pool data from different sources, whose primary goal is not to monitor the so-called irregular immigration or cross-border routes, the making sense of the situational pictures is, de facto, a re-enactment of these elements (as in the case of ship reporting systems). In other words, the ensemble formed by Frontex analysts, software and methodologies of risk assessment, are applying a new rationale to elements that were developed within a different discourse.

The second set of operations aims at better achieving reaction capability, and it implies three consecutive and intertwined ways of shaping the border. The first concerns consists in the splitting of the external border of each Member State into "border sections" (European Commission 2011c:18—Art. 13). This re-drawing is a sort of *quadrillage*, as it is coupled with the creation or identification of a "local or regional coordination centre ensuring the effective and efficient management of personnel and resources" (European Commission 2011c: 18—Art. 13). In line with the metrics approach of EUROSUR, the second action foresees the "attribution of impact levels" to each border section (European Commission 2011c: 18—Art. 14). This evaluation is risk assessment driven, and carried out by FRONTEX; the relevant Member States are consulted and their NCCs are expected to "regularly assess whether there is a need to adjust the impact level (. . .) [and] may invite [FRONTEX] to change the impact level by providing substantiated information on the altered conditions at the external border section concerned" (European Commission 2011c: 19—Art. 14(2)). Impact levels—low, medium or high—explicitly relate to irregular migration and cross-border crime, and are mostly calibrated on the impact of these "incidents" on border security (European Commission 2011c: 18–19—Art. 14(1)). The third action focuses on the quality and scale of the reaction to be foreseen for each border section. It creates a sort of protocol for both surveillance activities (such as patrolling) and coordination among different agencies, at national and European levels. Hence, the purpose is to tailor measures and target efforts where the impact level is higher, implicitly assuming that both resources and willingness to share information are scarce, and should be engaged according to priorities.

This second set of operations is another interesting example of making sense, not only as production of knowledge, but as channeling and tuning of controls. The purported idea is to maintain the action responsive to swift changes, and avoid the dispersion of a 'flat' or static approach. In the words of the head of unit of the Frontex Situation Centre, the goal is "to provide the right information to the right place and to the right person, at the right time, in the right format" (Frontex 2014a: 40). It is the Frontex Situation Centre that "manages data streams" for EUROSUR, enriches them with further information and "keep[s] the member states informed"

Fig. 2 Photo of the Frontex Situation Centre made publicly available on the Frontex website under the heading "Eurosur": http://frontex.europa.eu/photo/eurosur-LD3NF7

(Frontex 2014a: 43, cf. also Fig. 2 below). More importantly, through these operations, these makings of sense, the borders are represented and enacted as un-linear and dynamic spaces, which can only be tamed through differentiation and prioritization.

6 (Digital) Borders Surveillance: a *Mise-en-Discours* of Individuals, Things and Spaces

According to the Schengen Borders Code, border controls consist of: (i) *border checks* and (ii) *border surveillance* (European Parliament and Council 2010(2006)). Border checks encompass the checks carried out at border crossing points, to ensure that persons, including their means of transport and the objects in their possession, may be authorized to enter the territory of the Member States or authorized to leave it. Border surveillance refers to the surveillance of borders between border crossing points and the surveillance of border crossing points outside the fixed opening hours, in order to prevent persons from circumventing border checks (European Parliament and Council 2010(2006): Art. 2). As stated in the Commission communication, EUROSUR "focuses on enhancing border surveillance" (European Commission 2008c: 2).

In the design of EUROSUR, border surveillance is a set of practices in which space maintains a primary role. As said above, the physical features of specific

spaces still seem to count. For example, concerning maritime surveillance, it is acknowledged that "[s]urveillance of the maritime areas is not surveillance of movement across a line (as in the case of land borders), but across an area which has its inner boundary at the coast" (European Commission 2008a: 22). However, this space is not empty: "[a]wareness in the maritime domain therefore requires monitoring the compliance of all activities, detecting with the help of surveillance and ship reporting systems anomalies that may signal illegal acts and generating intelligence that enables law enforcement authorities to stop unlawful entry into the EU area" (European Commission 2008a: 13).

Therefore, the government of the (maritime) space is not a mere territorialized government, but one that is able to make sense of a (scarcely) populated space, of the individuals and the things animating it. In this sense, the different operations described in the section above are crucial: the fragmentation of a single space into both meaningful and manageable sections; the population of these new spaces via the enrollment of elements that were exogenous to the surveillance practices or via the introduction of new ones; the connection of different elements to make them speak, and to prioritize some among many; the calibration of the use of limited resources; the representation of information within dynamic situational pictures.

In a sense, this ambition is one of *mise-en-discours*, and is somehow similar to that of other settings proposed at EU level, such as the EU wide project for the collection and processing of Passenger Name Records for security purposes (Bellanova and Duez 2012). This *mise-en-discours* is at the same time an incitation to discourse, to let things reveal and speak and a continuous *mise-en-relation*, connection of different elements. These related operations are often translated in institutional jargon as risk-analysis, or framed as government through risk management in academia (Aradau and Van Munster 2007; Muller 2010).

What is also particularly interesting in the EUROSUR system is that risk analysis is defined and tailored in a partially different way, as its main focus concerns explicitly both human and non-human elements in a given space rather than only individuals' behavior. Actually, single individuals are not the most relevant elements of the methodology of control. Even if they are formally and ultimately the main 'target' of surveillance, they do not 'feed' the system as such. Individuals become a source of information and a site of operation for EUROSUR only when they are in a group and when they are subsumed in specific objects (e.g., boats). In both cases, what is relevant is not their single behavior or their individual and personal characteristics, but only their statistic features and the discrepancy between the behavior of a given object and its supposedly 'normal' route. For example, in the 2008 Commission communication risk analysis is understood as recognition of patterns, analysis of trends, detection of migration routes and prediction of risks, detection of anomalies and is linked to the idea of pre-frontier intelligence picture (European Commission 2008c: 8).

7 Sweet Dreams or Reality? Technical and Political Feasibility

Beyond the analytical de-scription of its programmed operations, it is now important to explore the question of the very feasibility of EUROSUR. Analytically, the issue of the feasibility encompasses two different sets of questions: the technical ones and the political ones. Even if these two dimensions are deeply intertwined, we stick to this basic opposition in the remainder of the study. Nevertheless, we consider as granted that the distinction between what is a political and what is a technical question is often blurred. A careful analysis usually shows that technicalities are not politics-free, and that politics encompass important technical dimensions. Indeed, as we already mentioned, formally labeling a question as 'technical' is often a subterfuge of the political; an attempt to depoliticize sensitive matters (Brouwer 2008; Jeandesboz 2011). Still, even when we accept as starting point the institutional repartition of technical and political, the analysis has to face heterogeneous ensembles, which persistently defy the official repartition.

Regarding the technical feasibility, the Presidency Conclusions of the European Council meeting of the 15th–16th December 2005 (European Council, 2005) called on FRONTEX to launch two feasibility studies. The aim of the first report, called MEDSEA, was to study the reinforcement of the monitoring and surveillance of the southern maritime border of the EU, more concretely in the Mediterranean Sea, and the possibility of creating a Mediterranean Coastal Patrols Network involving EU Member States and North African countries.[6] The main conclusion of the study delivered on July 2006 was a call for setting up a two-level structure for the regular exchange of information. The first level would consist in the (already mentioned) National Coordination Centres (NCC) in each Mediterranean Member State that would be connected to a FRONTEX network to ensure the cooperation and coordination of activity at the maritime borders and areas. The second level would be based on the interconnection of each NCC with two Operational Entities (in each Operational Area "OA") at national level. The operational working concept would depend on the cooperation between them, both at national level and also between Member States. NCCs would therefore ensure the communication between the two levels.

The second feasibility study, complementary to the previous one, was called BORTEC.[7] The aim of the BORTEC study was to explore the technical feasibility of establishing a surveillance system covering the whole southern maritime border of the EU and the Mediterranean Sea. The study made an overview of the existing technologies in use, the different areas of coverage and their technical solution, and the needs and wishes for further developments. It offers definition and overview of

[6] A summary of the MEDSEA Study is available in Annex 7 of the Impact Assessment document accompanying the EUROSUR Communication (European Commission 2008a: 78–84).

[7] As for MEDSEA, a summary of the BORTEC Study is available in Annex 8 of the Impact Assessment (European Commission 2008a: 85–89).

the technical management system for different technologies and their possible compatibility. It also provides an overview of the areas which are not covered by any systems today and which systems are covering the neighboring areas. Similarly to the MEDSEA study, the BORTEC study was prepared by a team of experts from Member States and from FRONTEX. Additionally, the European Joint Research Centre (JRC) in Ispra (Italy) contributed to the Core Team with one expert. The Core Team was also assisted by a Support Group of 14 Member States, the European Commission, European Defence Agency (EDA), European Maritime Safety Agency (EMSA), European Space Agency (ESA) and European Union Satellite Centre (EUSC) (Arias Fernandez 2006: 130; European Commission 2008a: 78). The study was completed in 2006 and tabled in January 2007.

Most of the elements presented in MEDSEA and BORTEC have been included in the 2008 EUROSUR communication and the 2011 draft regulation, including the technologies to be used and the institutional structures (cf. also: Jeandesboz 2008:7). Backing these guidelines, the Justice and Home Affairs Council encourages the Commission to launch a new study concerning the key components of the EUROSUR concept, and to analyze the possibilities of using surveillance tools and satellites on reliable basis, financial consequences for the introduction of such a system and an assessment to the border surveillance infrastructure in selected third countries on the basis of an evaluation to be carried out by FRONTEX. Consequently, the Commission signed in December 2008 a contract with a private contractor for the technical study on developing concepts for border surveillance infrastructure, a secure communication network and a pre-frontier intelligence picture (European Commission 2011a: 3). Funded under the External Borders Fund, the study was carried out by the software and system company ESG, with the help of subcontractors such as EADS, SELEX and Thales. SECUNET and the University of the German Federal Army enacted as consultants (European Commission 2011a: 5, note 10).

While EUROSUR is mainly a project carried on by the Commission, in close cooperation with Member States and FRONTEX, we can see that industry and research also play an important role in developing, testing and implementing the system. We have not yet explored these aspects of the makings of EUROSUR, what we can already note that it is particularly interesting of the EUROSUR project is the acknowledged role of industry and research, which are designed to actively contribute to the production and design of the setting. The participation of private actors (industry) is not a novelty, but one of the most common features of the set up of digital borders (both as providers of technologies and information, and enactors of surveillance and control). However, their role is often left on the margin of debates, as 'incidental' actors rather than main characters. Apart from this invisibility of the private actors, it is worth to note that the EUROSUR project explicitly foresees a key role for EU-founded research projects, which formally become an important actor of the setting (European Commission 2009: 7).

The next step after the tabling of the 2011 draft regulation was to complete the legislative process through its adoption and make EUROSUR operational by 2013. EUROSUR effectively went live on December 2, 2013, and is since on trial. The

system enables the NCCs to exchange—within a common sharing environment—relevant information with other communities with interests in the EU maritime domain, such as transport, fisheries, customs and defense (European Commission 2011a: 11). In the first phase of implementation, 19 Schengen countries having external land or sea borders adopted the system (Rijpma and Vermeulen 2015).

If the Commission seems quite confident about the technical feasibility of the project, what about it's political feasibility? Regarding this second dimension, the American experience can be seen as a worrying precedent for the European strategy. As mentioned before, the argument for the implementation of EUROSUR as put forward in Europe shares certain theses developed across the Atlantic, in particular by the former Democrat Governor of Arizona and current Secretary of State for Homeland Security Janet Napolitano. Her well-known formula "[s]how me a 50–foot wall and I'll show you a 51–foot ladder" was meant to give support to an alternative "virtual border" to the actual "physical" fencing of the United States/Mexico border. For Napolitano

> [b]oots on the ground definitely help, but we can shore up our border gaps with ground-based sensors, radar, and unmanned aerial vehicles for wide-area intrusive-detection. Any combination of the above will work far better than any 10 or 20 or 50 miles of wall (Napolitano 2007).

At the time, this sort of 'faith' in the potential of new technology ignored its exorbitant cost as well as its relative efficiency. According to an evaluation report by the US Department of Homeland Security, the American project for a *SBInet* virtual border developed by Boeing (Greenhouse 2011) cost almost a billion dollars for equipping a mere 53 miles of border. It was eventually abandoned in January 2011, the DHS considering that "the SBI*net* program, as originally proposed, does not meet current standards for viability and cost-effectiveness" (US Department of Homeland Security 2011).

Coming back to the European context, border control and surveillance has also turned into a costlier-than expected venture for the EU budget (Jeandesboz 2008: 13). Whilst the initial budget of FRONTEX amounted to 19.2 million Euros in 2006, the figure had risen to 94 millions by 2013 (Frontex 2014a: 30). Nevertheless, that budget still looks like a drop in the sea compared to the American SBI*net* program. Regarding EUROSUR as such, all Member States concerned have programmed relevant measures under the External Borders Fund (EBF) and the "Cash-Flow and Schengen Facility" in line with Priority 2 of the strategic guidelines (European Commission 2009: 3). These guidelines foresee Community funding up to 75 % for investments in establishing a single NCC and in establishing or upgrading a single national surveillance system. Here, much more money seems to be available, given that 1.820 million have been allocated the EBF over the period 2007–2013.

Nevertheless it is not self-evident that Member States will accept to dedicate, in the long-term, big budgets to border surveillance, especially in a context of severe financial crisis and economical downturn. For instance, the 9 million euros/month Operation Mare Nostrum (OMN), established by the Italian Government between

October 2013 and October 2014, was considered to strain the resources of its navy and coast guard, even if it permit Italy to save 150,000 migrants, mainly from Africa and the Middle East. The Italian operation was eventually replaced by Frontex Joint Operation Triton on November 1st 2014, with a monthly budget of only 2.9 million euros/month. It was only under the pressure of fast repeating tragedies at sea that the initial Triton's budget has eventually been tripled to reach the same budget that the Italian operation. The proposal includes tripling Triton's monthly budget to some 9 million euros/month so that it can lease extra military vessels and other assets pledged by member states.

In a sense, the preparatory work of the Commission on the financial consequences of EUROSUR, the long pages on costs sharing, projections of investment, policy option building and evaluation, all these multiple impact assessments could be understood as a way to reduce the political risk of the enterprise, to reassure 'classical political actors' and reduce their point of entry into the question. Similarly, the rejection of a "one size fits all" program that would be implemented by a unique private contractor, following the model of the American SBI*net*, reveals a sensitivity to cost-effectiveness. Conversely, the choice of a system of systems that integrate already existing sectoral systems, which are reporting and monitoring traffic and activities in sea areas under the jurisdiction of the Member States and in adjacent high seas into a broader network aims to reduce the overall cost of EUROSUR and avoiding useless duplications.

Beside financial considerations, relations with neighboring countries are another source of difficulties in implementing EUROSUR. As stated in the 2008 Impact Assessment, a major factor for the success of EUROSUR will be the active involvement of neighboring third countries (European Commission 2008a: 28). Moreover, the Commission acknowledges that the migration pressure presents considerable challenges not only for the Member States on the northern border, but also for the third countries located on the southern shores of the Mediterranean Sea in terms of detection, apprehension, reception and further processing and readmission of migrants. It is therefore necessary to include these areas into surveillance activities and to support and to cooperate with the countries of origin and the countries of embarkation of illegal immigrants. The development of conflict situation in Syria and Libya in the wake of 2011 Arab Springs, the emergence of new conflict areas, such as Iraq or the Horn of Africa, not only further increase war-related migration through the Eastern and Central Mediterranean routes, but also make impossible any cooperation with transit countries.

8 Conclusions

Besides being a politically important project, EUROSUR shows also interesting specificities. The most evident one is often captured and synthesized in its frequent dubbing as *system of systems*. Indeed, the ambitions are so high, the range of action so wide, and the constitutive elements so disparate that the definition of *system of the systems* surely renders the setting up of a vast, protean and complex system.

However, it is important to note that such complexity, and the many foreseeable difficulties in its implementation are mostly acknowledged in the text, to a point in which such awareness seems to influence the very design, and presentation, of the setting. This is evident in its declination as a sort of "road-map" in the 2008 EUROSUR communication. A road-map to be implemented in different steps, which should permit a both incremental and differential deployment before definitive completion. Compared to other EU proposed settings which were presented as linear implementation of new technologies to specific challenges and issues, this "road-map philosophy" appears more reflexive, and somehow pre-emptive of socio-technical controversies latent in all settings (cf. the tortuous and yet incomplete implementation of most of the other EU projects in the field, and in particular the implementation of the SIS2). In this sense, as discussed in the section above, the role of studies, experts, EU funded projects is particular important to increase the ability to muster "things" together, to effectively advance in the *making of* EUROSUR.

At the same time, speaking of a system of the systems should not obfuscate the influence of the new setting on previously existing ones. The relations established by and via EUROSUR are not a strictly vertical hierarchy with EUROSUR or FRONTEX on the top. The operations mediated by and via EUROSUR deploy a different geometry: the *platform* distributes existing information, or collects and elaborates new ones, and quickly forwards the most relevant ones to connected systems in targeted way; the *quadrillage* of the space dynamically convoys and re-directs resources and cooperation efforts. As discussed above, all these actions are possible only through the articulation and mustering of multiple and heterogeneous elements, and, to a large extend, through the introduction of new elements or the re-calibration of existing ones (surveillance devices, situational pictures interfacing information, a new spatialization of the border sections). In this sense, EUROSUR is not just an addendum or technical fix, but it is a continuous effort of *mise-en-discourse*.

Indeed, *prima facie* the role of EU-flagged actors (including the nonhuman ones) seems ancillary to Member States' governments and agencies: a sort of mere technological platform limiting its role to the establishment of connections, provision of technological tools and little else. Probably, in this sense, it can also be understood as focusing on border surveillance rather than on border checks, which apparently keeps EU actions outside Member States' borders both in spatial and temporal terms. However, the different sets of operations envisaged by EUROSUR transform the previous settings and become an (implicit) obligatory passage point. Within this new panorama, specific EU agencies, such as FRONTEX, but also those who are in charge of granting research funds, acquire an important role in the *making of* specific digital borders.

On the backdrop of these analyses, we submit that EUROSUR works as a proper *dispositif*. It does not only assemble heterogeneous elements, but it establishes a methodology to both construct and make sense of a controlled space. It attempts to bring order and to mobilize something that is perceived as messy, and too prone to generate political controversy. Through its main operations, as well as through its

very development, it attempts to split a political space in two more manageable imbroglios. On the one hand: the chaotic institutional panorama of European and national agencies and border control policies; on the other hand: the challenges rising from geography and human mobility. This partition is proposed and at the same time solved through a double operation of *making sense of* what is outside or external—the migrants, the flows of smugglers, etc.—and of what is (to be) used to make this outside intelligeable—the radars, the patrolling boats, the national authorities and so on.

All in all, our analysis of the EUROSUR project does foster an understanding of a controlled space very similar to the one pictured by Perec in the quote at the beginning of this chapter. It does push this description further beyond the words of Perec: it is not only "space [that] is a doubt", but also the elements that are used for its "mark[ing]" and "conqu[est]" that are not given per se, but have continuously to be assembled and mustered together (Perec 1997(1974): 91). Two final notes for further research can be then proposed. First, even a controlled space emerges in its inherent fragility, a fragility that should be further investigated not merely in terms of efficiency and failure, but in search of the possible openings for politics. Yet, even if the controlled space remains fragile and does not foreclose the political, its methodological character may achieve a more subtle, but still far-reaching, impact on the kind of political questions that can be advanced.

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