

## Chapter One

### **“The Secret is to Look Good on Paper”:**

## **Appropriating Mobility within and against a Machine of Illegalization**

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Reports in the media on spectacular border crossings tend to create the impression that the majority of illegalised migrants enter the European Union (EU) clandestinely, hidden in freight containers or in unseaworthy boats. It is however by now an established fact that the majority of illegalised migrants arrive perfectly legally with a valid Schengen visa in the EU and only become ‘illegal’ once it has expired (Collyer et al. 2012; Düvell 2011; EC 2003; Schoorl et al. 2000: 101; Sciortino 2004; Zampagni 2013).<sup>1</sup> The importance of visas as a mode of entry for illegalised migrants has also been documented for other destination countries like the United States, where it is estimated that so-called ‘visa overstayers’ account for 40-50% of the country’s illegalised population of 12 million people (Andreas 2000: 100; Pew Hispanic Center 2006: 3).<sup>2</sup> Likewise, reports on illegalised migration in the United Kingdom (which is not part of the Schengen area) underlines that, contrary to public perception, the vast majority of illegalised people in the UK are

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<sup>1</sup> In this chapter I use the criminalising terms ‘illegal’ migrant or ‘illegal’ migration only if the EU’s official terminology is unavoidable. In order to highlight the active role that statist institutions play in the processes that *make* people ‘illegal’ I will speak of ‘illegalised migrants’ instead (Bauder 2013). The notion of ‘illegalised’ migrants thus brings to the fore the processes of illegalisation that get concealed by other, apparently politically more correct alternative terms like ‘unauthorised’, ‘irregular’, ‘clandestine’ migrant or ‘sans papiers’ (Karakayali 2008). Especially in relation to the mode of illegalised migration described in this chapter, these terms occlude more than they reveal as migrants enter the EU neither unauthorised, nor clandestine nor ‘sans papiers’.

<sup>2</sup> More recent figures suggest that this share might have increased: A report of the DHS (Department for Homeland Security) published in January 2016 suggests that in 2015 alone 416.500 people on short-term visas have possibly remained in the US after their ‘lawful admission period’ expired as the DHS had no record of their departure despite data exchange programs with all commercial air and sea travel providers (DHS 2016).

non-deported rejected asylum seekers and visa overstayers (Sigona and Hughes 2012: 6). This observation has also been confirmed for the global level: The IOM's *World Migration report 2010* emphasizes that most of the 10-15% of the world's international migrants who are in an irregular situation are, in fact, overstayers (IOM 2010: 29). Yet, neither the importance of restrictive visa policies for the illegalisation of migration, nor the significance of visas as a mode of illegalised migration have been sufficiently acknowledged by border and migration studies so far.

This is well reflected by the relative neglect of the Schengen visa regime – which is the focus of this chapter – in the border and migration studies literature. The meagre, but growing number of publications one finds on the Schengen visa regime sits in stark contrast with the attention that more visible aspects of border control like detention centres, deportations, militarised border controls under the lead of FRONTEX or interception policies in the Mediterranean have received in border, migration and critical security studies. It could indeed be argued that much of the research in border and migration studies suffers from the same bias as media coverage and public debate which, by focusing on more visible and often dramatic forms of unauthorised border crossing and the spectacle of militarised border enforcement, ‘help to generate a constellation of images and discursive formations, which repetitively supply migrant “illegality” with the semblance of an objective fact’ (De Genova 2013: 1830). The relative neglect of the Schengen visa regime is the more astonishing given that it affects the access to mobility of billions of people. Phenomena like the much debated attempts to cross the Mediterranean in overcrowded boats constitute, in fact, nothing but effects of this vast machine of illegalisation which provokes this and other dangerous forms of border crossing, as I show in this chapter.

Moreover, we know virtually nothing about aspiring migrants’ attempts to appropriate mobility to Europe via Schengen visa and the less spectacular border struggles that occur, on a

daily basis, in the 3.500 visa sections that the EU's member states maintain worldwide. This chapter uses the introduction of the Visa Information System (VIS), one of the largest biometric databases in the world, as an occasion to compensate for this twofold gap in the borders and migration studies literature. Drawing on the autonomy of migration approach (AoM), I engage the Schengen visa regime from the perspective of aspiring migrants in order to investigate how they appropriate mobility to Europe via Schengen visa in the context of biometric border controls.<sup>3</sup>

This question is raised by the AoM's core thesis. As indicated by its name, the AoM suggests that migration features moments of autonomy, that is moments of uncontrollability and excess, in relation to the attempts to control and regulate it (cf. Bojadžijev and Karakayali 2007; Mezzadra 2011; Moulier Boutang 1993). This claim is in tension with the promotion of biometric technologies as adequate means for “filling the gaps” in traditional methods of border control (Thomas 2005). What makes biometric recognition systems so attractive for border control purposes is their alleged capacity to verify the claimed identity of a person with unprecedented speed and accuracy. One purpose of the VIS is for instance to verify that the person seeking to cross the EU's external border is the same to whom a Schengen visa has been issued in the consulate. To this end, the fingerprints of all visa holders are captured upon arrival at the EU's external borders and compared to the fingerprint templates that have been created and stored in the VIS when the people concerned applied for a visa in the consulate. Thus, the VIS is meant to forestall that passports with valid Schengen visa are used by so-called lookalikes i.e. similarly looking persons

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<sup>3</sup> What distinguishes the AoM from other approaches in border and migration studies is that it makes migrants' practices the starting and focal point of any investigation of border regimes or migratory processes (Moulier Boutang 2007). Due to this strategic-analytical prioritisation of migrants' practices, the AoM is particularly attuned to migrants' struggles over the appropriation of mobility and other resources within and against today's border regimes. Hence, proponents of the AoM understand migration as a political expression in itself (Bojadžijev and Karakayali 2007; Mezzadra 2011; Papadopoulos et al. 2008). With this impetus the AoM was introduced as an alternative to the 'Fortress Europe' discourse in debates of the anti-racist movement in the 1990s (for a more detailed discussion of the AoM's features and relevant debates see: Scheel 2013a).

(Broeders 2007). What this example demonstrates is that the VIS forecloses some of the practices by which migrants could so far successfully appropriate mobility to Europe. Hence, the introduction of the VIS raises the question, how migrants appropriate mobility to Europe via Schengen visa in the context of biometric border controls?

To engage this question provides me, and this is the second contribution this chapter seeks to make, with the opportunity to introduce the notion of appropriation as an alternative concept to theorise migrants' capacity to subvert border controls. To this end, I will identify six features that practices of appropriation share irrespective of their form. The need for such an alternative concept resides in the limitations of the two concepts that are usually invoked in border and migration studies to theorise migrants' capacity to challenge governmental attempts to control and regulate their behaviour. These are the concepts of agency and resistance.

This twofold objective is reflected in the chapter's structure. In the first two sections I show that the Schengen visa regime constitutes, from the viewpoint of aspiring migrants, an unpredictable regime of institutionalised distrust that renders mobility to Europe a scarce resource. The Schengen visa regime emerges as a machine of illegalisation that entices multiple practices of appropriation and thus the very practices it is meant to forestall. In the third section I elaborate on one set of practices by which migrants appropriate Schengen visa in context of the VIS. After outlining the central shortcomings of the two concepts that are usually invoked to theorise migrants' capacity to defy border controls, I use this example to illustrate six features that practices of appropriation feature irrespective of their form.

The following account of the Schengen visa regime and practices of appropriation is based on ethnographic fieldwork that I have conducted in and around consulates of Schengen member states in a North African country. During two field visits in 2012 I observed all phases of the visa

application and decision-making procedures in a consulate to which I refer in the following only as consulate Z. The reason is that field access was tied to the promise to use the information obtained only in a way that enables neither the consulate nor the country where the research was conducted to be identified. These participant observations have been complemented by interviews with visa applicants, consular staff and heads of mission of other consulates.

## **Making mobility to Europe an exclusive affair:**

### **The visa regime as a machine of illegalisation**

‘We are like flies... what are we waiting for?’ an old woman shouts angrily. Together with dozens of other visa applicants she has been waiting since seven o’clock in the morning outside a large visa section to have her fingerprints taken in order to enrol in VIS. For most people in the queue it is the second day of their visa application. In an attempt to rid itself of the bad image created by queues in front of its buildings in the middle of the capital, the visa section, which receives a large proportion of visa applications in the country in question, has outsourced the lodging of visa applications to a private company. Following the instructions on the consulate’s homepage, most applicants arrange an appointment at the company’s offices, located in a prosperous business district out of town, to submit their application for an additional fee of 25 Euros. If their file is complete and none of the required documents are missing, applicants receive an appointment to have their fingerprints taken at the consulate the next day. Many visa applicants regard the new procedure as confusing and complicated. As a surgeon working in a private clinic explains, the visa application procedure is a nuisance for him primarily because it is so time-consuming. The income he loses because he cannot work for two days is more significant to him than the additional fees he has to pay to the private company. Hoping to resume his work at the

clinic as soon as possible, he has arrived three hours early for his appointment, like many others who are waiting on the small street behind the consulate. Lorries on their way to the nearby market sound their horns angrily at the waiting people as they try to pass the crowd that almost blocks the road. After 15 minutes and plenty of shouting, the two security officers guarding the consulate entrance bring the waiting crowd back in line.

What this account illustrates is that the visa application procedure is not only time-consuming and expensive, but is also a daunting experience for applicants, a point that has been greatly emphasised by the existing literature on the Schengen visa regime (Bigo and Guild 2003; CIMADE 2010; Infantino 2013; Maschino 2008; Zampagni 2011). Less has been written about the many people who never join one of the queues in front of the 3,500 consular posts Schengen member states maintain worldwide because they cannot meet the manifold requirements an applicant needs to fulfil to receive one of the precious entry tickets to Europe.

Each day during my research I encountered people who told me they had never applied for a Schengen visa or had tried once only to be rejected. One morning, while I was asking people in the queue described above for an interview, a young man approached me and asked me for advice. His name was Mohamed.<sup>4</sup> He explained to me that he had recently tried to apply for a Schengen visa only to be chased away by the guards in front of the consulate. Laughing at him, they had told Mohamed that his visa application would be refused anyway, advising him to come back in a couple of years when he had found a job and started a family. ‘Why can I not go to Europe? Why can I not go to [name of country represented by the consulate] to learn about the culture and get to know the people? I have studied European culture and philosophy, so why can I not go there now to get to know it first hand? What do I have to do to get a visa?’ I had no ready reply. I just

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<sup>4</sup> All names in this chapter have been changed.

confirmed what the guards had already told him: his visa application would certainly be rejected because as a young student without a stable financial income he embodied a high ‘migration risk’ in the eyes of consular staff. Each day I encountered numerous others who, unlike Mohamed, had not even dared to apply for a Schengen visa because they ‘knew’ what the guards had told him: they had no realistic chance of being granted a visa. Tarek, a cab driver, had a brother living in Europe but had never tried to visit him because ‘they would never give me a visa.’ Walid, a young servant working in the hotel where I was staying, had learned from failed attempts by friends that applying for a visa was ‘just a waste of time and money’.

The accounts of Mohamed, Tarek, Walid and countless others highlight that it is the very rationale of the Schengen visa regime to render mobility to Europe a scarce resource. This is far from surprising, since ‘making a division between good and bad circulation, and maximising the good circulation by minimising the bad’ (Foucault 2007: 18) is the *raison d’être* of this vast security dispositif. In practice, the Schengen visa regime restricts foreign nationals’ access to the EU by introducing an entry ticket, a Schengen visa, receipt of which is subject to conditions that a significant share of the population cannot fulfil and that often do not correspond to local circumstances. People like Mohamed, Tarek and Walid are excluded *from* registration and documentation with a Schengen visa through a ‘wall of documents’ they cannot provide and a set of requirements they cannot fulfil (Broeders 2011: 59). This is why the Schengen visa regime constitutes a ‘Paper Curtain’ (Lavenex and Uçarer 2004: 433) for many citizens from the 124 countries that are subjected to a visa requirement, **as shown on the map below**.<sup>5</sup>

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<sup>5</sup> These 124 countries include all African and most Asian states (with the exception of Japan, Malaysia and South Korea) as well as a four South American states plus Belize, Cuba and Jamaica in the Caribbean (Council 2001) For a **map** refer to official webpage of the DG Migration and Home Affairs of the European Commission: [http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/borders-and-visas/visa-policy/index\\_en.htm](http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/borders-and-visas/visa-policy/index_en.htm) (01.05.2015).

For instance, consulate *Z*'s instruction leaflet enumerates no less than ten different types of documents applicants must provide for a tourist visa: a valid passport, bank statements for the past 12 months, proof of means of subsistence (88 euros per person per day) or a declaration from a host that they will cover costs, a holiday request signed by the employer, an employment contract, salary slips for the past three months, a social security card, a print-out of social security contributions, travel insurance for all Schengen member states and a reservation for a return ticket. Together with the costs of the visa application itself (fees, travel and accommodation in the capital), the cost of providing these documents easily amounts to the average monthly income in the country I visited (cf. Zampagni 2011). Moreover, providing some of these documents may prove impossible for many people, as they do not reflect the working and living conditions of a large share of the population. In the context of a large informal economy, cab drivers like Walid may not have a bank account or pay social security contributions (Alpes 2011: 116-117). That the paper requirements for a Schengen visa are often removed from local realities is also admitted by J, who works at an embassy harbouring one of the largest visa sections in the country I visited. In the context of a large informal economy, even very rich business people find it difficult to provide documents confirming their wealth, J tells me. The same applies to farmers, who cannot provide evidence of the land they own due to incomplete registers, she adds.

But even if they provide all the requested documents, people like Mohamed, Tarek or Walid will not be issued a tourist visa by any of the consulates I have visited, because they do not meet the informal requirements that guide consular staff's decisions. The head of the visa section at consulate *Z*, for instance, considers any application for a tourist visa dubious, because the member state he represents 'is certainly not the most attractive tourist destination in Europe.' Hence, he only issues tourist visas to people who have previously visited Europe and have a

permanent job with a significant income. Likewise, the head of a visa section that does, in fact, represent an attractive tourist destination, boasts in an interview: ‘Anybody who does not earn at least double the average monthly income will not get a visa from me.’ By setting requirements for a visa that the majority of the local population cannot fulfil, the Schengen visa regime subjects Mohamed, Tarek, Walid and countless others to the paradoxical freedom of the ban ‘to go anywhere except where one wants to go’ (Bigo 2007: 26).

But since people ‘do not decide to stay put just because the receiving state says they are not welcome’ (Castles 2004: 209), the Schengen visa regime operates, in effect, as a vast machine of illegalisation. This becomes apparent if one recalls that boat migration from North African coasts only became a significant phenomenon after Spain imposed visa requirements on nationals of all African and Arab countries in 1991 in order to meet the accession criteria for the Schengen area (Carling 2007: 11, 22; de Haas 2008: 1307). People like Mohamed, Tarek and Walid have, in fact, only two options at their disposal to contest their banishment from Europe through highly restrictive visa requirements: Either they try to appropriate mobility via Schengen visa through practices that involve the clandestine transgression of these strict regulations, or they bypass the Schengen visa regime altogether by engaging in more dangerous modes of clandestine border crossing, which are often facilitated by ‘smugglers’ who overcharge their clients for their services.

Peter Andreas makes a similar observation in regards to the aggressive border enforcement policies which have been pursued at the US-Mexico border since the 1990s. One crucial effect of the upscaling of border controls is that it pushes aspiring migrants – like restrictive requirements for a Schengen visa – ‘into a wider web of illegality’ (Andreas 1998: 348), thus provoking the very phenomena tough border enforcement is supposed to forestall. In case of the US-Mexican border, migrants’ tactics of appropriation have developed from practices of ‘self-smuggling’ to more

clandestine forms of border-crossing that often involve the services of ‘well-organized, binational people-smuggling organisations’ (ibid). In case of the Schengen visa regime, it is a set of highly restrictive formal and informal requirements that efficiently bars a significant share of the local population from applying for a Schengen visa in the first place, which compels aspiring migrants to engage in criminalised practices, such as ‘corruption’, ‘document fraud’ or unauthorised border crossings, in order to appropriate mobility within and against a complex security dispositif whose very logic is to make mobility to Europe a scarce resource. By enticing this ‘forced fraud’ (Garcia 1997), the Schengen visa regime generates this and other forms of ‘delinquency’, like illegalised migration in unseaworthy boats across the Mediterranean, which are subsequently invoked as evidence by border control authorities for the alleged need to introduce more and better security technologies, a dynamic that I describe in the next section.

### **At the Consulate:**

#### **Encountering an unpredictable regime of institutionalised distrust**

Yet, the Schengen visa regime entices not only ‘have-nots’ like Mohamed, Tarek and Walid to engage in criminalised practices like the manipulation of supporting documents, but also people who are able to provide the requested documents that are needed to submit a visa application procedure in the first place. The reason is that also for those who fulfil the formal criteria for a Schengen visa the outcome of their application is highly uncertain as they are faced with an unpredictable regime of institutionalised distrust.

Given that it is very *raison d’être* of the Schengen visa regime to reflect and deflect the mobility of potential migrants, while facilitating the mobility of ‘bona fide’ travellers, it is not surprising that many of the visa applicants I interviewed reported that they felt mistrusted and

disbelieved by consular staff. This widely shared experience results from the fact that visa applicants enter the consulates of Schengen member states as ‘suspects’ (Bigo and Guild 2003: 93), as the following account from consulate Z confirms.

‘Since when have you worked for this company?’ the employee at consulate Z asks through the Plexiglas window. ‘For three months now’ replies the woman, who has increasing difficulty holding her young child on her arm. She and her ten year old daughter standing beside her have been in front of the counter for more than half an hour. They look intimidated and strained. ‘You are very lucky’ says the employee with a cynical inflection. ‘Thank you!’ – ‘You are most welcome’, replies the employee in an overfriendly voice, while she types under the rubric ‘opinion’ in the electronic file: ‘note the unusually high income the applicant purports to have received for three months now’.

After they have left, a young woman approaches the counter. She has completed a master’s degree in English at a local university and is applying for a visa to take up an internship with an NGO working with people with special needs. ‘How did you find this internship?’ ‘Why do you want to work for this NGO?’ ‘Is this the first time you have applied for a Schengen visa?’ While the woman replies ‘yes’ to the last question, the employee writes in the ‘opinion’ section: ‘note that the education of the applicant has nothing to do with her envisaged internship.’ When I ask the employee why she has entered this unfavourable judgment, she replies that the young woman has just finished her studies and is ‘apparently’ looking for work. ‘Her visa application will probably be refused’, she concludes.

This account offers a glimpse of the culture of institutionalised distrust that reigns in the consulates of Schengen countries.<sup>6</sup> Institutionalised distrust has frequently been identified as a central feature of the visa application procedure (Alpes and Spire 2014; Bigo and Guild 2003; CIMADE 2010; Infantino and Rea 2012). The latter has been described as a bureaucratic process in which ‘suspicion by default’ (Zampagni 2013: 96) is regarded as ‘a sign of professionalism’ (Alpes 2011: 125).

In the following I demonstrate, however, that this culture of distrust is not created by instances of ‘fraud’ (Alpes and Spire 2014: 167), though it is certainly animated by them. Rather, it is already inscribed in the Schengen visa regime’s risk management approach. This is reflected in the Community Code on Visas (CCV), the legal basis for the Schengen visa regime. Article 21 states that the principal objective of the visa application procedure is to ‘assess [...] whether the applicant presents a *risk of illegal immigration* or a *risk to the security* of the Member States and whether the applicant intends to leave the territory of the Member States before the expiry of the visa applied for’ (EP and Council 2009b: 12; emphasis added). Through this clause, the mere wish to travel to the Schengen area becomes the subject of general suspicion. Consequently, the assumption of innocence is reversed in the visa application procedure: consular staff always start from the negative and it is the applicant who has to convince consular staff that she does not intend to migrate. It is thus the notion of risk itself that creates a culture of institutionalised distrust in Schengen visa regime consulates.

In this context it should be noted that the notion of risk constitutes an indispensable element of the operational logic of the Schengen visa regime. It is through its evaluation in terms of risk

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<sup>6</sup> The notion of a culture of institutionalised distrust is inspired by studies of the British asylum system, which invoke a ‘culture of disbelief’ to grasp the generalised suspicion asylum seekers are confronted with throughout the processing of their claims (e.g. Griffiths 2012).

that the entire population of a given country is rendered as suspect. It is thus the notion of risk which allows to subject those wishing to move to in-depth control *in* their country of departure and *before* they have started to move. This dislocation of border controls in both space and time constitutes, in a nutshell, the *raison d'être* of the Schengen visa regime, as a report for the EMN confirms: '[...] visa policy is a tool of which the EU and the Member States avail themselves in an attempt to control the mobility of third country nationals *prior* to their entry into the country, i.e. *extra-territorially*' (Parusel and Schneider 2012: 5; emphasis added). During this control process, applicants have to prove through the answers they provide in an interview and the documents they furnish as evidence for their answers that they, contrary to the general suspicion that led to the imposition of a visa requirement in the first place, do *not* pose a 'migration' or 'security risk'. A culture of institutionalised distrust at consulates is therefore as integral to the operational logic of the Schengen visa regime as the notion of risk itself.

But how do consular staff 'assess' the 'migration risk' of an applicant in order to fulfil the core objective of the visa application procedure and what are the criteria upon which this 'assessment' is based? The answer in brief is that consular staff do not so much assess but rather ascribe a migration risk to a visa applicant, based on informal criteria that vary from one visa section to the next. It is thus no miracle that many applicants judge the decision-making as arbitrary and unfair (Alpes 2011; Bigo and Guild 2003; CIMADE 2010; Infantino 2013). What underpins these widely shared perceptions is that the Schengen visa regime is, in fact, unpredictable in regards to its decision-making procedure and its outcomes. This unpredictability derives from the discretionary power of consular staff in conjunction with the visa regime's risk management approach, which introduces an irreducible moment of interpretation in the decision-making procedure, as I am going to explain now.

Whenever I asked consular staff how they decide on visa applications I received the same evasive answer as Alexis Spire (2009: 80) in his seminal study on French migration administrations: ‘on a case by case basis’. The head of the visa section in consulate Z (hereafter: M) defended this case-by-case approach as ‘sensible’, arguing that it would grant consular staff the ‘flexibility that is necessary to assess each case individually.’ What this justification of consular staff’s ‘flexibility’ in the decision-making indicates is that discretion constitutes an indispensable element of the operational logic of the Schengen visa regime. Discretion is an irreducible ‘part of the reality of policy implementation’, because it permits street-level-bureaucrats working on the frontline to adapt abstract laws and regulations to individual cases and local circumstances (Bouchard and Carroll 2002: 242; Lipsky 1980: 16). Consular staff often emphasised that the definition of any clear-cut decision criteria would prove to be impossible. Since ‘each dossier is different’, as they put it, consular staff have to interpret it to adapt it to the general provisions of abstract laws and regulations. It is thus the task to ‘assess’ the ‘migration risk’ of a visa applicant, the practical implementation of article 21 of the legal basis of the Schengen visa regime (EP and Council 2009b), that introduces an irreducible moment of interpretation in the decision-making procedure. And it is this irreducible moment of interpretation, which is *inherent* to any assessment of risk, that makes the decision-making procedure unpredictable for visa applicants as it results in the application of decision criteria that vary from one consulate to the next.

For consular staff’s decision-making praxis is shaped by a local practical knowledge that varies across visa sections. The reason is that the notion of ‘migration risk’ does not only create uncertainty for visa applicants, but also for consular staff. The task of ‘assessing’ the ‘migration risk’ posed by an applicant compels consular staff to make decisions under conditions of time-constraint, incomplete information and uncertainty. ‘We cannot look inside peoples’ heads’, a

senior official responsible for visa policy at a foreign ministry admits in an interview. Since consular staff have no direct access to visa applicants' intentions, their 'assessment' of an applicant's 'migration risk' is based primarily on interpretation. But this interpretation does not occur in a void. It is shaped by practical knowledge and informal decision-making criteria that circulate among consular staff in the form of stories about legendary cases which function as reference points for consular staff's decisions, as illustrated by the following example.

'This applicant shows the profile of a young person from a deprived area in the South who seeks to establish relationships with tourists, enabling him to apply for a visa to Europe. A possible marriage cannot be ruled out.' This is one of the many entries by counter staff at consulate Z that features the notions of 'risk' and 'profile'. It illustrates that consular staff interpret a particular combination of certain biographical features as indicators of the presence or absence of 'migration risk'. But this example equally shows that these interpretations are shaped by local practical knowledge that surfaces in the form of prototype cases. Consular staff 'assess' the 'migration risk' of an applicant by looking for patterns in the biographical features and narratives of visa applicants in order to allocate them to one of the 'profiles' of these prototype cases. In this instance, it is the applicant's age, origin and social class and relationship to his host which serve as indicators for 'migration risk', as they correspond to 'the profile of a young person from a deprived area in the South who seeks to establish relationships with tourists, enabling him to apply for a visa to Europe.'<sup>7</sup>

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<sup>7</sup> For the prominence of the notions of 'risk' and 'profile' in the judgments of consular staff in other consulates see the works of Federica Infantino and Andrea Rea (2012) and Francesca Zampagni (2013: 95-97). This is no coincidence, since an EC handbook on the processing of visa applications explicitly invites consulates to 'define "profiles" of applicants presenting a specific risk [...]' (EC 2010: 65). Yet, the handbook neither defines what a 'profile' is, nor does it outline procedures for how a 'profile' should be drawn up. Moreover, the role of these 'profiles' in the decision-making procedure remains entirely unclear as '[...] each individual application shall be assessed on its own merits irrespective of possible "profiles" having been drawn up' (ibid.).

Hence, consular staff's decisions are not arbitrary because they are bestowed with a relative coherency by the informal decision-making criteria that circulate among consular staff in the form of advice and stories about legendary cases that are subsequently codified as informal 'profiles' and 'types' of applicants. This local practical knowledge about certain 'profiles' and 'types' of applicants is then mobilised by consular staff to negotiate the uncertainty that the task of 'assessing' the 'migration risk' of an applicant generates for them. Together with a culture of institutionalised distrust and a shared ethos among consular staff, who tend to regard themselves as protectors of national identity and defenders of the welfare state (Infantino and Rea 2012: 74; Spire 2009: 58-60), it is this local practical knowledge which imbues consular staff's decision-making with a relative coherency.

While this relative coherency explains, why consular staff's decisions are not arbitrary, their decisions remain, nevertheless, unpredictable for applicants for three reasons. First, there remains a variance within the relative coherence of the decision-making praxis in each visa section due to the discretionary power of consular staff (Spire 2009: 61-79). Second, the informal criteria and prototype cases that inform consular staff's decisions are not known to visa applicants. Finally, decisions on visa applications remain unpredictable because the practical knowledge, which bestows consular staff's decision-making praxis with a certain coherency within one visa section, varies from one consulate to the next.

For instance, M explains to me that he would never issue a visa to a widowed woman wanting to visit her grandchildren in Europe, 'because the risk is too high that she stays with her family.' He conceives this case as a 'win-win-situation'. Following M's reasoning, the widowed woman has an interest in staying in Europe, because she would no longer be alone. The family would in turn welcome her stay, because the grandmother could look after their children. The head

of another visa section argues, in contrast, that he would always issue a visa in such cases, if the inviting family could sustain the applicant financially, because ‘an old woman does not do the economy any harm, no matter whether she stays or not.’ What this example illustrates is that the local practical knowledge informing consular staff’s ‘assessment’ of an applicant’s ‘migration risk’ varies considerably from one consulate to the next, rendering their decisions unpredictable for visa applicants.

Ironically, it is then the risk management approach of the Schengen visa regime and the attempt to render uncertain future behaviours predictable and governable, which make the decision-taking procedure unpredictable and its outcome uncertain for visa applicants. Yet, the uncertainty that this unpredictability of the decision-making procedure creates for visa applicants ‘is not equal for everyone’ (Alpes 2011: 120). Those who primarily regard the visa application procedure as a time-consuming nuisance, like the surgeon in the queue, are those who can be relatively certain of getting a visa because their ‘profile’ corresponds to that of a *bona fide* traveller. A second group of people, like Mohamed, Tarek and Walid, can in turn be certain that they will not be granted a visa as long as they play by the rules that render them ineligible for an entry ticket to Europe. But for a significant share of people the result of their visa application is highly uncertain due to a bureaucratic process that is unpredictable in regards to its outcomes because of the irreducible moment of interpretation that decision-making by consular staff involves and the opacity and variability of the informal criteria they deploy to ‘assess’ the alleged ‘migration risk’ of an applicant.

Practices like applying at a consulate that has a reputation for being less ‘strict’ than the representation of the member state that constitutes an applicant’s travel destination, or concealing biographical features that may be interpreted as an indicator of a ‘migration risk’ by consular staff,

such as family ties in Europe, are prosecuted as 'visa shopping' and instances of 'fraud'.<sup>8</sup> And they are represented as such by border control authorities, who cite them as evidence for the alleged need to tame the excessive agency of visa applicants through ever more pervasive security technologies like biometrics. However, from the viewpoint of those wishing to move, these and other practices of appropriation constitute indispensable tactics that are necessary in order to negotiate the uncertainty that the visa application procedure generates for them. It is thus the culture of distrust that reigns in the consulates of Schengen member states in conjunction with the opacity and variability of the informal criteria used by consular staff in their decision-making that prompt people willing to move to engage in practices of appropriation in the hope of increasing the prospects of success for their visa application.

Yet, the introduction of the biometric database VIS, which is meant to serve the EU as a multipurpose tool in its self-proclaimed 'fight against illegal immigration' (EC 2006), forestalls some of the practices by which people willing to move could previously successfully appropriate mobility to Europe via Schengen visa. It is for instance no longer possible to hand on passports with valid Schengen visa to 'lookalikes', as indicated in the introduction. It is also no longer possible to use stolen blank visa stickers or to manipulate the content of visa-stickers in a way that permits the re-use of a visa either by the person to whom it was issued or by another person. If no corresponding file exists in the VIS, it is very likely that the person concerned will be denied entry upon arrival at the external borders of the Schengen area. For border guards do not only use the

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<sup>8</sup> The pejorative term of 'visa shopping' refers, first, to practice of visa applicants to lodge further applications at consulates of one or several other Schengen member states after an initial application has already been turned down, and second, to the practice of lodging an application at the consulate of another member state than the one that is responsible for processing the application. Following article 5 of the Community Code on Visa (CCV), applicants are required to apply for a Schengen visa at the consulate of the member state that constitutes 'the main destination of the visit(s) in terms of length or purpose of stay' (EP and Council 2009b: 6).

VIS to verify that the person seeking to cross the border is the same to whom the visa has been issued, but also to retrieve extensive data on the traveller and her visa application from the database in order to compare it to the information on the visa sticker.<sup>9</sup> Finally, the VIS permits consular staff to detect the lodging of several visa applications at different Schengen consulates, because they can now check, as a senior border guard put it, ‘if this fingerprint has already applied for a visa’.<sup>10</sup> Hence, the introduction of the VIS raises the question, how people willing to move can still appropriate mobility to Europe via Schengen visa in the context of biometric border controls.

## **Appropriating mobility to Europe via Schengen visa:**

### **Real, fake, fakingly real or real fake?**

During my fieldwork at consulates in North Africa I encountered various ways of appropriating Schengen visas. Due to space constraints, I am only able to present one mode of appropriation here that involves the provision of manipulated or falsified supporting documents. I will use this example to outline six features that practices of appropriation share irrespective of their form. The aim is to introduce the notion of appropriation as an alternative concept to theorise migrants’ capacity to subvert border controls and defy migration policy objectives.

The need for such an alternative concept resides in the shortcomings of the two concepts that are usually invoked in border and migration studies to grasp migrants’ capacity to challenge and subvert border controls. These are the concepts of agency and resistance. The main problem

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<sup>9</sup> An amendment to the Schengen Border Code prescribes the verification of the fingerprints of *all* visa holders upon entry as mandatory (EP and Council 2009a).

<sup>10</sup> To this end, also the fingerprint templates and biographical information of all persons whose visa applications have been rejected are stored in the VIS for a period of five years. Following articles 8(2) and 15 of the VIS-regulation (EP and Council 2008) and article 21(2) of the CCV (EP and Council 2009b), consular staff have to conduct a search in the VIS with the applicant’s fingerprints in order to forestall this form of ‘visa shopping’.

with the concept of agency is that agency, understood as ‘the socioculturally mediated capacity to act’ (Ahearn 2001: 112), always presupposes a structure as its counterpart. The result of this structure-agency divide is a static analysis in which structures and individual and collective forms of agency are analysed separately and consecutively (for a more detailed account of this argument see: Scheel 2013b). What the notion of agency thus fails to capture is what we often find on the ground: An intricate entanglement of practices of government and subversion. The notion of resistance is in turn problematic because resistance is an inherently reactive concept: it suggests an already existing formation of domination that is to be opposed in a reactive manner. Due to its conception as a ‘responsive act’ (Rose 2002: 387), the notion of resistance fails to register the constitutive role that practices of contestation by the governed play in the transformation of regimes of government (O'Malley et al. 1997). In the following I will thus introduce the notion of appropriation as an alternative concept that transcends the limitations of ‘agency’ and ‘resistance’ indicated here.

During my second visit to consulate Z, a woman applies for a family reunification visa to join her husband, who is already living in Europe. The supporting documents she needs to provide to obtain a long-term national D visa are even more comprehensive than those demanded for a Schengen visa.<sup>11</sup> Instead of the applicants’ ‘will to return’, the socioeconomic situation of her spouse is decisive for the positive outcome of her application. Following the laws of the country represented by consulate Z, staff must be assured that the applicant will ‘not become a burden for the welfare state’, as an employee formulates it. Besides a marriage certificate, the woman has to

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<sup>11</sup> ‘D visa’ is the official term for a visa that allows its holder for staying beyond the maximum period of 90 days of a Schengen visa (officially referred to as ‘C visa’) in the Schengen area. Though issuing D visas falls within the sole competence of member states and is not regulated by EU-legislation, there are no differences concerning application and decision procedures (Infantino and Rea 2012). While data for D visas is not stored in the VIS, many member states have begun to capture of biometric data of applicants for D visas in national databases since the necessary infrastructure is already in place due to the VIS.

provide evidence that her husband can sustain her and their children financially and that his apartment is spacious enough to accommodate them. Q, a counter official, flips through the supporting documents the woman has passed through the hatch beneath the Plexiglas window in separate plies. 'Your husband's payslips are too old. Is he still employed?' When the woman replies that he is not, Q advises her to refrain from lodging her application. The woman seems puzzled: 'Why do you not want to give me a visa? I have given you three payslips, as stated in the leaflet on your homepage.' Q patiently explains that it is not the correct number of payslips that is decisive for the outcome of her application, but credible evidence that her husband receives sufficient income to sustain her financially. The woman leaves close to tears.

Shortly afterwards she returns to Q's counter, accompanied by the security officer guarding the entrance. She wants to know why Q is refusing to process her application. 'I have only politely advised you not to lodge your application because it will probably be rejected. If you insist, I am happy to process your application...' The woman asks Q to write down how many and what kind of documents are missing for a successful application. Q replies that it is not his job to solve her problems. The woman insists: 'So if I bring you three more payslips, then you will give me the visa?' Q becomes loud: 'No! It is not about the payslips, but that your husband has to receive a stable income so you can prove he can sustain you financially! You have just told me that your husband is out of work at the moment. So do you want to forge the documents or what?'

While we do not know if this is what the woman had in mind, many applicants do, in fact, resort to falsifying and manipulating supporting documents like employment contracts and social security records. As explained in the previous section, this 'forced fraud' (Garcia 1997; Spire 2009: 56) is provoked by a highly restrictive visa regime that sets requirements for a Schengen visa that do not correspond to the living realities of a large share of the local population. What the encounter

described above indicates is the contested status of the supporting documents. For consular staff like Q, payslips and other supporting documents constitute a device of control for the verification of the socioeconomic situation of applicants and their hosts. Article 21 of the CCV stipulates: 'The examination of an application shall be based notably on the authenticity and reliability of the documents submitted and on the veracity and reliability of the statements made by the applicant' (EP and Council 2009b: 12). The example of the woman shows, in turn, that applicants primarily regard the requested supporting documents as obstacles to be negotiated in order to receive an entry ticket to the Schengen area. From their perspective, the falsification and manipulation of supporting documents like payslips and bank statements constitutes an attempt to repurpose these devices of control into means for appropriating mobility.

Hence, the first feature of practices of appropriation is that they operate through the *recoding* of the actors, methods and effects of control into means of appropriation. This capacity of migrants stems from the logic of contemporary border regimes to make people willing to move and when on the move complicit in the control of their mobility. Migrants are implicated in the control of their mobility not only as passive objects, but also as acting subjects, because the capacity of border regimes to regulate human mobility derives from, but also hinges on, the active participation of those whose mobility they are designed to govern. Supporting documents like bank statements or social security records are requested by the consulate, but they are provided by the visa applicant. This distribution of the capacity to act in migrants' embodied encounters with border control authorities (Scheel 2013b) also surfaces in the fact that it is Q, the employee of consulate Z, who asks the woman in front of her counter questions in order to assess her eligibility for a family reunification visa, but it is woman who provides the answers and is thus able to influence the outcome of Q's assessment. It is the active involvement of people on the move in the

government of their mobility which implies that migrants can articulate their capacity to act in ways, which convert the means, methods and practices of mobility control into mechanisms which allow for its appropriation.

This observation indicates the second shared feature of practices of appropriation: they are *inseparably intertwined* with the actors, means, methods, operational logics and effects of mobility control. What aspiring migrants and travellers try to achieve through the provision of falsified or manipulated supporting documents is to transform the functional overdetermination of the Schengen visa regime into a pathway to mobility. This functional overdetermination resides in its multiple 'objectives of promoting exchanges among civil society, of meeting the demand for skilled labour, of attracting investment and business without enhancing the risk of irregular migration' (Parusel and Schneider 2012: 45).

While applicants do not know the criteria that guide consular staff's decision-making, they do nevertheless have a sense of these criteria. How and where to get a visa is a topic of intense debate in the country I visited, precisely because people are confronted with an unpredictable regime of institutionalised distrust. Hence, a superficial knowledge of consular staff's informal decision-making criteria circulates in the form of rumours and stories about people whose applications have either been refused or accepted by a particular consulate. These stories and rumours mirror the local practical knowledge consular staff mobilise to cope with the uncertainty generated by the risk management approach. While consular staff use stories about prototype cases as reference points for their decisions, visa applicants infer the 'profiles' of these prototype cases from rumours about successful visa applications. Due to these rumours, aspiring migrants sense that they have to provide evidence that they have 'something to lose', 'something to return to' in their country of origin if they want to convince consular staff of their 'will to return'. Hence, many

applicants falsify supporting documents or manipulate their content in such a way that the fictitious biographies these documents support correspond to the perceived 'profile' of a *bona fide* traveller: 'The secret is to look good on paper,' Anas (the teacher whom I met outside a large visa-section) aptly summarizes this tactic of appropriation.

These features highlight that the notion of appropriation captures – better than the concepts of 'agency' and 'resistance' – the intricate entanglement of practices of government and control with those of subversion and contestation that we often find on the ground. Instead of obscuring this intricate entanglement through a static analysis that engages 'structures' and 'agency' in isolation from one another, the notion of appropriation invites scholars to investigate, first, how migrants try to repurpose and recode the actors, devices and methods of mobility control into means of appropriation, to show, second, how this capacity derives from the feature of the mechanisms of control to enlist people in the surveillance and regulation of their mobility.

The reason why we encounter, rather than open confrontation, an intricate entanglement of practices of control and subversion in the context of migration are the highly asymmetrical power relations at sites of border control. At consulates, visa applicants must behave within the narrow parameters set by this securitising site: they must provide all the requested documents, answer all questions asked by consular staff and – since VIS began operation – have their fingerprints taken. A refusal to comply with any of these regulations results in the automatic refusal of a visa. It is these highly asymmetrical power relations that explain why, rather than openly contesting restrictive border regimes, migrants usually try recode the mechanisms of control into means of appropriation. And it is these highly asymmetrical power relations that compel migrants to execute this recoding secretly and unnoticed if their attempts are to be successful. Practices of appropriation, then, constitute both an 'art' (de Certeau 1984: 37) and a 'weapon of the weak' (Scott

1985). Since practices of appropriation operate – like the tactics described by Michel de Certeau (1984) – in an environment they do not own, *remaining undetected*, and this is their third shared feature, is a precondition of success for practices of appropriation.<sup>12</sup>

For consular staff are, of course, aware of attempts to appropriate visas through the provision of falsified or manipulated supporting documents. Applicants who provide self-fabricated documents run the highest risk of being detected. Consular staff reported documents containing clumsily scanned stamps or apparently altered names. This shows that appropriating Schengen visa by staging a fictitious biography backed-up by manipulated or falsified feeder documents demands skills, knowledge and social contacts which not all people possess.

These failed attempts also points out that the recoding of the actors, mechanisms and methods of control into means of appropriation involves the *clandestine transgression* of the norms, official regulations and informal rules of contemporary border regimes. Through the clandestine transgression of the parameters of legitimate behaviour laid out for them, and this is the fourth feature of practices of appropriation, migrants initiate a relation of irreconcilable conflict between migration and the attempts to regulate it. For consular staff regard migrants' attempts to appropriate visa through falsified or manipulated supporting documents as nothing but 'document fraud'. Each instance of 'fraud' which is detected is taken as confirmation of the need for constant vigilance since staff are dealing with 'people [who] use all sorts of tricks to get a visa', as M put it. This relation of conflict manifests in dialogues of action between migrants who try to

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<sup>12</sup> Migration from North African coasts to European islands constitutes a noteworthy exception to this rule, as it involves being 'rescued' by the coastguard – i.e. recoding these actors of mobility control into a means enabling its appropriation – and spending some time in detention camps on the island before being transferred to the European mainland. But once there, the success of the appropriation of mobility hinges again on remaining undetected and avoiding attracting any attention. For migrants usually disappear to lead a life under conditions of illegality and collectively organised invisibility (Carling 2007; Papadopoulos et al. 2008). Moreover, the recent deal between the EU and the Turkish government that foresees the direct return of migrants arriving on Greek islands back to Turkey suggests that remaining undetected is again becoming a precondition of success for the appropriation of mobility to Europe by crossing the Mediterranean in often overcrowded boats.

appropriate a visa by providing manipulated documents and consular staff trying to detect these attempts. It is through the study of migrants' embodied encounters with the actors, means and methods of control that these conflictive dialogues of action can be investigated (Scheel 2013b).

In these conflictive dialogues of action migrants confront devices, actors and methods of surveillance and control that constitute recuperated forms of previously successful practices of appropriation. One visa section head cites the employment of local staff, who can tell if the appearance, statements and behaviour of an applicant correspond to her claimed socioeconomic standing, as an important safeguard against the use of manipulated supporting documents. This control measure underlines the importance of *impression management* in the interview situation. If applicants claim to hold a higher socioeconomic position than they actually have, they need to dress up and prepare for possible questions in regards to their claimed profession. A salesman in a shabby business suit who purports to do business in Europe without speaking a single word of French or English or knowing the price of the goods he purports to purchase will not be believed. Migrants who try to appropriate a visa by providing manipulated or falsified supporting documents have to maintain a strict 'dramaturgical discipline' with the script of the fictitious biography their documents are meant to support: They should 'not commit unmeant gestures or faux pas in performing it' and should be able cope with 'dramaturgical contingencies as they arise', such as an unexpected question from consular staff (Goffman 1959: 216).

Any incoherency between applicants' fictitious biographies and their appearance, statements and behavior in the interview may prompt consular staff to engage in additional background checks. In case of doubt, consular staff may call banks, universities and employers to verify the information provided by employment contracts, certificates and bank statements (Spire 2009: 93). Staff at consulate Z, in turn, verify the applicant's social security records to check the

information given on bank statements, employment contracts and payslips. Each day M sends a list of social security numbers from cases that have raised his suspicions to the local administration to verify that the information on the social security records provided is correct and corresponds to an applicant's claimed income. Some member states also send specially trained border guards who use UV lamps, magnifying cameras and forgery detectors to check passports and supporting documents for traces of manipulation and falsification. If they detect manipulated or falsified supporting documents, the respective visa application will automatically be refused. In addition, consular staff may add the applicant's name to the so-called 'black list'.<sup>13</sup>

The stance that it is migrants' practices of appropriation that initiate a relation of irreconcilable conflict between migration and the attempts to control it permits to read these means and methods of mobility control as attempts to recuperate migrants' practices of appropriation. It is migrants' attempts to appropriate Schengen visa and the struggles that these attempts initiate that force European border regime into a permanent process of reorganisation (Papadopoulos et al. 2008: 77-80). The European border regime emerges as an *apparatus of capture* that tries to recuperate migrants' practices of appropriation in order to convert them into a driving force of its own development (Shukaitis 2009: 37). More precisely, this vast security dispositif tries to harness new forms of knowledge, sociality and creativity engrained in migrants' practices of appropriation. From this follows, first, that migrants' practices of appropriation are enmeshed in a dynamic of subversion of and recuperation by the security dispositif, in which the relation of conflict they institute within the security dispositif manifests. Secondly, this stance requires contemporary

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<sup>13</sup> Keeping 'black lists' of applicants who have breached the visa regime's rules is not foreseen by the CCV. According to M, each consulate keeps its own 'black list'. While visa sections inform each other about 'abusive' applicants, it is at the discretion of each consulate's staff to decide whether to add a particular applicant to their 'black list'. M could not tell me how many names were on consular Z's 'black list' as he could neither evaluate the list statistically nor delete any names from it. Consequently, M sometimes sees hits in the 'black list', which is searched automatically by the software when he processes a visa application, that were entered more than ten years ago by his precursor.

modes of border control to be conceived of as recuperated forms of previously successful practices of appropriation (Shukaitis 2009: 48). In this way, the notion of appropriation permits scholars to show, to paraphrase Toni Negri, that it is 'by means of a continual theft of the [knowledge] generated by [migrants'] struggles' that the security dispositif 'create[s] increasingly complex mechanisms of domination' (2005 [1982]).<sup>14</sup> It is thus better equipped than the notion of agency with its structure-agency divide and the inherently reactive concept of resistance to capture the constitutive role that practices of subversion and dissent by the governed play in the transformation of regimes of government.

Yet, despite the introduction of ever more sophisticated methods of control and ever more pervasive security technologies like the VIS there exists one form of manipulated feeder documents that are, in the words of consular staff, 'nearly impossible to detect'. In the country I visited they are known as 'vrais faux' which one can roughly translate with 'real fakes'. Since 'the secret is to look good on paper', people may ask a friend or relative who owns a company to 'hire' them in order to obtain the employment contract and payslips required for a successful visa application, Anas tells me over coffee. 'What you need is a skilled job, like an engineer, a teacher or a receptionist in a large hotel', before adding: 'many people do that'. The existence of this practice is confirmed by J when I ask her about the authentication of supporting documents. 'Many people ask a friend or relative to provide them with an employment contract. These 'real fakes' are nearly impossible to detect, because they are essentially originals [...].'<sup>15</sup>

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<sup>14</sup> This reading the security dispositif as an apparatus of capture is in line with Foucault's analysis of the history of the arts of government. In his discussion of heretical practices diverging from Church doctrine Foucault argues for example that 'these counter-conducts [...] have been continually re-utilised, re-implanted and taken up again in one or another direction' by the Church, which 'tries to [...] adapt them for its own ends' (2007: 214-215).

<sup>15</sup> In fact, this practice seems to exist in many countries. In her research on consular practices in Senegal, Francesca Zampagni mentions the practice of issuing employment contracts to friends and relatives (2011: 23). 'Real fakes' also feature in a newspaper article on the appropriation of Schengen visas in Ivory Coast (Allou 2011). The practice of

Even if consular staff call the company that has issued the documents they will not discover that the applicant is only employed on paper since the person answering the phone will confirm all the information in the documents. Similarly, a request at the social security office will not reveal the employment as fictitious, because the friend who 'employs' the person who requires an employment contract is required by law to pay social security contributions for her 'employee'. In practice, the latter would reimburse her 'employer' for the monthly contributions. Hence, the social security records provided by a fictitiously employed applicant are just as 'real' as her employment contract and her payslips: all these documents are originals, issued by actually existing companies and administrations, but the employment relation they support is fictitious.

What the appropriation of Schengen visa through 'real fakes' demonstrates is that identity remains a 'battleground' (Groebner 2004: 182) despite attempts to render migrants' bodies a means of mobility control through the introduction of biometric databases. The VIS does not help to verify the authenticity of the supporting documents upon which the decision to issue a biometric Schengen visa is based (Muller 2010: 19). Ultimately, the appropriation of Schengen visas through the provision of 'real fakes' in the context of VIS confirms that biometric recognition systems are haunted by the very problem they are meant to solve, because 'any foreseeable system will be based on exactly the document-based methods of identification upon which biometrics are supposed to be an improvement' (Gold 2012: 11).

The fact that this play with identities is still possible in the context of biometric border controls illustrates, in turn, that moments of uncontrollability of migratory practices, that is moments of autonomy of migration, emerge, ironically, when migrants stage a convincing

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drawing up 'employment contracts [...] for friends or relatives to facilitate the issuing of a visa, though the persons concerned are not actually employed' is also mentioned in a handbook on the issuance of Schengen visa that has been published by the EC (2010: 57).

performance of compliance with the Schengen visa regime's formal and informal requirements. The provision of manipulated documents that are nearly impossible to detect has to be complemented by a credible imitation of the dress codes, behaviours and biographical features of the *bona fide* travellers aspiring migrants purport to be. In these performances of compliance with the 'profiles' of *bona fide* travellers it becomes intelligible why practices of appropriation derive their efficacy not from open resistance against the Schengen visa regime and its discriminating requirements but from their clandestine subversion, from hollowing them out from the inside.

Paradoxically, it is in these performances of docile compliance that the *political quality* of practices of appropriation comes to the fore: by staging a performance of feigned compliance with formal rules and informal criteria, migrants take what these rules and criteria are meant to deprive them of: access to mobility. The crucial point is that migrants self-authorise themselves to take the resources (not rights)<sup>16</sup> border regimes seek to deprive them of *without and instead of* claiming them from someone. It is this moment of self-authorisation that bestows practices of appropriation, and this is their fifth shared feature, with an irreducible political quality. Though migrants try to avoid attracting any attention when they appropriate mobility via Schengen visa, they nevertheless render border controls, and the legally codified forms of citizenship and the socio-economic status quo border controls are meant to establish and maintain, as objects of contestation and dissent. Instead of openly opposing restrictive migration regulations and related mechanisms of control, practices of appropriation challenge border controls by staging credible performances of the scripts

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<sup>16</sup> I speak of resources instead of rights here to stress that migrants appropriating mobility do not assert any claims to entitlements like freedom of movement, but rather *take* material and immaterial goods like mobility that are withheld from them. While the language of rights invokes an authority that recognises and grants rights claimed by subjects, the notion of resources, understood as 'material or immaterial goods that can be drawn on by a person or organisation to function effectively' (Oxford English dictionary) immediately links practices of appropriation with debates on the commons. This is, however, not to say that rights, understood as claims to entitlements that are the subject of contestations and struggles, are completely absent from practices of appropriation. Just as laws are rearticulated and mobilised as tactics for the conduct of conduct by the arts of government (Foucault 2007: 99), rights might be mobilised and rearticulated as tactics for the appropriation of resources by the governed.

of mobile subjectivities like middle-class tourists or business people, whose 'profiles' are regarded as devoid of any 'migration risk'. Thereby, migrants erode the informal criteria that guide the decisions of consular staff, ultimately, plunging the Schengen visa regime in an epistemic crisis. Since 'real fakes' are nearly impossible to detect, consular staff can no longer tell whether they are dealing with a 'real' or a 'fake' tourist, student or businessman, because the supporting documents provided may not only be 'fake' or 'real', but could also be 'real fakes'.

Yet, the appropriation of a Schengen visa through the provision of 'real fakes' and the successful imitation of the appearance of a bona fide traveller does not signify an unequivocal 'victory' of migrants over biometric border control technologies. Rather, it underscores the *irreducible ambivalence* of practices of appropriation as their sixth and final feature.

What makes practices of appropriation ambivalent is their inseparably intertwined with the means, and methods of mobility control. The re-coding of the devices, actors, operational logics and effects of mobility control in means of appropriation implies concessions, compromises and side-effects which may prove to be detrimental for migrants and their migration projects in the long run. Migrants cannot completely usurp the means and methods of control for their own purposes. Due to these concessions, compromises and side-effects, practices of appropriation always result in partial, contested, and polyvalent outcomes that imply further struggles over the appropriation of mobility, whereby each of these struggles features its own set of sites, actors and stakes. It is thus the irreducible ambivalence of migrants' practices of appropriation that inserts a self-perpetuating dynamic into migrants' struggles over mobility to Europe. The final paragraph of the visa application form, above the field reserved for the applicant's signature, is indicative of this self-perpetuating dynamic:

I undertake to leave the territory of the Member States before the expiry of the visa, if granted. I have been informed that possession of a visa is only one of the prerequisites for entry into the European territory of the Member States. The mere fact that a visa has been granted to me does not mean that I will be entitled to compensation if I fail to comply with the relevant provisions of Article 5(1) of Regulation (EC) No 562/2006 (Schengen Borders Code) and I am therefore refused entry. The prerequisites for entry will be checked again on entry into the European territory of the Member States (as cited in: EP and Council 2009b: 29).

What the statement that a visa does not guarantee entry to the Schengen area indicates is that the successful appropriation of a Schengen visa leads to another struggle over the selective denial and direct appropriation of mobility. This struggle takes place upon arrival at the external border of the Schengen area and revolves around the conditions of entry. The first line of the paragraph indicates, in contrast, that migrants will face further struggles over mobility and other resources after a successful border crossing. The appropriation of mobility via Schengen visa results in a compromise as it also implies migrants' disenfranchisement by the border regime: living and working in Europe is now possible, but only under the precarious and contested conditions of illegality (Karakayali and Tsianos 2005). After the expiration of their visas migrants become 'illegal', rendering the entire Schengen area a vast borderzone crisscrossed by struggles revolving around the appropriation of various resources such as an income, housing, access to health care and a permanent residence title. In these struggles the appropriation of mobility remains contested and preliminary as long as migrants are haunted by their data doubles that were created when they initially applied for a Schengen visa and that are stored in VIS in order to facilitate their re-identification and deportation in case of detection by authorities. It is this self-perpetuating dynamic of migrants' struggles over the appropriation of mobility and other resources that makes

the relation of conflict migrants' initiate within the security dispositif an irreconcilable conflict between migration and attempts to control it.

## **Conclusion**

Starting from the observation that the central role of Schengen visa regime in the illegalisation of migration as well as in the appropriation of mobility to Europe has not been sufficiently acknowledged so far, I have engaged this complex security dispositif from the perspective of those whose mobility it is meant to assess and control. Drawing on the provision of manipulated or falsified supporting documents as an example, I have shown, and this was the first objective of this chapter, that it is still possible to appropriate mobility to Europe via Schengen visa in context of biometric border controls. The adoption of the perspective of mobility has allowed me to show, moreover, that these and other practices of appropriation are provoked by the Schengen visa regime itself. The latter constitutes a vast machine of illegalisation that, besides creating an artificial scarcity of access to mobility to Europe by setting requirements for a visa that do not correspond to local circumstances, entices applicants to engage in criminalised practices like 'visa shopping' or 'document fraud' in order to increase the prospects of success for their application. While the provision of manipulated feeder documents emerges as a tactic of aspiring travellers and migrants that is necessary in order to appropriate mobility within and against an unpredictable regime of institutionalised distrust, these and other practices of appropriation are framed in terms of delinquency by border control authorities as instances of 'fraud' and 'betrayal'. In this way migrants' attempts to appropriate Schengen visa are mobilised as evidence for the alleged need to implement more and better security technologies, like the VIS, a dynamic that Michel Foucault (1980 [1977]: 195) has called the 'strategic elaboration' of the security dispositif.

I could only briefly indicate this dynamic here by characterising the Schengen visa regime as an apparatus of capture that tries to recuperate migrants' practices of appropriation in order to render them as a driving force for its own development. Thereby, I have tried to show that the notion of appropriation is better equipped than the inherently reactive concept of resistance to account for the constitutive role that practices of subversion and dissent by the governed play in the transformation of regimes of government. It also better captures the intricate entanglement of practices of contestation with those of surveillance, government and control than the notion of 'agency' with its structure-agency divide. In order to introduce the notion of appropriation as an alternative concept for the theorisation of migrants' practices of subversion, and this was the second objective of this chapter, I have used the provision of manipulated supporting documents as an example to outline six features that practices of appropriation share irrespective of their form. Hopefully, this conception will provide a useful tool to intervene in migrants' mostly silent, but inherently political struggles over mobility and other resources by showing that it are the operational logics of today's ever more pervasive border regimes that provoke the very phenomena they are designed to combat and forestall.

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