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## Deaths along southern EU borders

Last, T.K.

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## **What is the relationship between EU border deaths and policy? Conflicting hypotheses in academia and policy-making**

Predominantly young and healthy people have been dying while attempting to enter the European Union (EU) for three decades (Chapter 2). As indicated by the words used to describe the phenomenon, ‘migrant mortality’ and ‘border deaths’ are presumed to be related to migration and border policies. Policy is also generally seen as an important tool to resolve the phenomenon. As Basaran (2014: 366) comments, “there is wide-spread consensus that these are preventable deaths”.

The phenomenon of EU border deaths first appeared in academic scholarship in the early 2000s, introduced by sociologists and lawyers concerned with race relations, peace studies and human rights. Over the last decade, as public interest in the situation increased, academic research on EU border deaths grew substantially, and diversified in terms of disciplinary, methodological and theoretical approaches. A lot of academic literature on EU border deaths attempts to explain its relationship to policy and indicate solutions. Meanwhile, border deaths have prompted a new EU border policy objective, variously stated as ‘saving lives’, ‘reducing’ or ‘preventing deaths’. This humanitarian objective has been assimilated into measures to enhance national security and prevent crime by preventing illegal immigration and disrupting smuggling networks (e.g. EUROSUR, EUNAVFOR MED).

Although it is generally accepted among policy-makers and academics that there is a connection, *how* EU border deaths are related to policy is still debateable. How the relationship is conceived informs political responses to border deaths. To provide clarity, this chapter unpacks academic literature and EU policy documents. What is the relationship between EU

border deaths and policy? How do academic and policy-makers' understandings of this relationship compare?

The chapter presents the methodology and findings of two studies. The first study investigates common understandings of the relationship between EU border deaths and policy among academics through an exhaustive review of academic literature. The second study investigates EU policy documents that mention border deaths to tease out the rationale behind the policy objective to prevent these deaths and to identify how policy-makers understand border deaths to be related to policy. These studies are followed by a discussion comparing their findings and the implications of their differences for the phenomenon and its political solution.

### **Study 1: How does academic literature present the relationship between EU border deaths and policy?**

#### *Method*

The search for relevant academic literature built on an initial, unpublished review by the author from 2014. This review, conducted of 18 academic documents attained by the author via email and ad hoc online searches, included a few Italian (Cuttitta 2004), French (Blanchard, Clochard and Rodier 2008, 2012) and German (Kiza 2008) contributions as well as non-peer reviewed working papers (Albahari 2006), master theses (Zagaria 2011) and reports (Weinzierl and Lisson 2007, Last and Spijkerboer 2014, Heller and Pezzani n.d.). This initial list was extended for the purposes of this study to include all published scholarship discovered through a thorough search<sup>112</sup> of major publishers of English-language peer-review journals and academic volumes. Articles were selected if they mentioned national or EU policy and deaths during migration across EU external borders in the title, abstract or introduction. This produced a bibliography of more than 80 works from a wide range of disciplines.

The list was then narrowed down by excluding those that did not contribute to exploring the relationship between deaths and policy. This excluded literature that dealt exclusively with how the dead and missing are memorialized and mourned (Zagaria 2011; Stierl 2016a; Perl 2016), how the bodies of deceased travellers are identified and treated (Zagaria 2011; Cattaneo et al 2010, 2015; Introna, Di Vella and Campobasso 2013; Last 2016 (Chapter 3 of this book); Perl 2016; Pavlidis 2016), the impact of deaths on policy, discourse and institutional responses (Zagaria 2011; Rijpma and Vermeulen 2015; Follis 2015), how these deaths have inspired solidarity and political activism (Rygiel 2016; Puggioni 2015; Stierl 2016a, 2016b) or how they affect the spaces that witness them (Pugliese 2009; Zagaria 2011). It also excluded literature on EU or national border policy that mentions border deaths only in passing, featuring as one example of many negative characteristics of irregularised migration (Andersson 2015; Monzini 2007; Carter and Merrill 2007; Brigden and Mainwaring 2016; Guild and Bigo 2010; Kassar

<sup>112</sup> Conducted in July and August 2016 of Web of Science and major journal publishers (Sage/Taylor&Francis/Brill/Wiley) for all articles relating to “Europe” “border”/“migrant” “deaths”.

and Dourgnon 2014; Cuttitta 2006; Hamood 2006; Tondini 2010; Lemberg-Pedersen 2015; Rijpma and Vermeulen 2015). These are all important contributions to the field of knowledge about EU border deaths and the ramifications of EU border policy, but those that do not (also) specifically address how policy and border deaths are related, fall outside the scope of this study. Finally, a few contributions were dropped for the sake of repetition: the same author(s) presented the same ideas in multiple publications (e.g. Spijkerboer 2013b; Heller and Pezzani n.d., 2016b; Fekete 2003; Blanchard, Clochard and Rodier 2008).

The 39 academic works finally included in the study were analysed for theoretical frameworks, disciplines, terminology, data sources and use, geographical limitations, temporal limitations, type of relationship between deaths and policy, assumptions, and hypotheses about how policy and deaths were/are/could be related. Discipline-specific language was preserved, but concepts and ideas were ‘translated’ to identify commonalities across the various disciplines of the works included in the study. The results concerning the relationship between deaths and policy are presented in the next section; the results concerning data are presented in Chapter 4).

### ***Findings***

Academic publications on EU border deaths have multiplied in the last few years. In the final selection of literature, there are 20 works published between 2004-2013 and 19 works published between 2014-2016.<sup>113</sup> Despite the wide range of disciplinary approaches and focus points of the works studied, the study found several points of consensus across the literature that suggest a common academic understanding of the relationship between EU border deaths and policy.

There is very little questioning of the existence of a relationship between EU border deaths and policy in academic literature; a relationship is generally presumed, resulting in very little exploration of what *type* of relationship it is. In some literature it is unclear, while others allude to several different types of relationship without explanation. The study identified seven types of relationships in the literature, which are presented in Table 5.1. Most authors implicitly refer to more than one type in their explanation of the phenomenon. Some types (e.g. temporal, spatial) serve to map the relationship in much the same way that border deaths have been mapped (Kiza 2008; Blanchard, Rodier and Clochard 2012; Heller 2015). Other types (e.g. unidirectional/causal, remedial, reciprocal/cyclical) emphasize state responsibility (Weinzierl and Lisson 2007; Spijkerboer 2013, 2017). Finally, targeted and structural types of relationship highlight the harm done on a human or social level and tie it to exclusion.

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<sup>113</sup> This could reflect greater general interest and funding opportunities following the international growth in public awareness of EU border deaths sparked by the infamous 3<sup>rd</sup> October 2013 shipwreck next to Lampedusa.

**Table 5.1 Types of relationship between EU border deaths and policy identified in academic literature (continues on next page)**

Type of relationship	Brief description	Examples from the literature
Temporal	Deaths occur or increase when policy is introduced, suspended or otherwise changes.	Kiza (2008: 310) claims “die zeitliche Koinzidenz” (the temporal coincidence) between increase in border mortality and the creation of the Area of Freedom, Security and Justice means “wichtige Zusammenhänge zwischen beiden Entwicklung bestehen müssen” (important connections must exist between the two). Williams and Mountz (2016) conclude there is a “temporal positive correlation” between policies and their enforcement, on the one hand, and deaths, on the other.
Targeted	The population at risk of border death are the target of migration and border policies.	“the group facing the greatest concentrations of death at the physical frontiers come from countries most likely rejected for lawful entry as part of pre-departure visa regimes governing lawful arrival (and in many cases most likely to gain refugee status post arrival)” (Pickering and Cochrane 2013: 38) Lutterbeck (2006) and van Houtum (2010) describe deceased irregularised travellers as “would-be immigrants”
Spatial	<i>Border policies and border deaths both occur in border regions.</i>	“we may be able to locate borders firmly by tracing where border deaths occur” (Pickering and Cochrane 2013: 45)
Unidirectional, causal	Policies cause deaths, directly and/or indirectly.	Deaths are the “result” or “effect” or “collateral damage” or “product” or “outcome” of policies. Policies are the “cause” or a significant or decisive “contributing factor” of border deaths.
Structural	Policies create conditions for deaths, reinforcing existing inequalities.	Migration and border policies reflect and reinforce structural inequalities through violence against non-privileged groups. Migration and border policies negatively affect the safe functioning of other systems, such as Search and Rescue and the Law of the Sea, Human Rights Law, democratic law-making, International Humanitarian Law and humanitarian relief efforts, the international refugee regime, and even people smuggling.
Remedial	The right policies can reduce or prevent deaths.	States are obliged to act to reduce or prevent deaths (Spijkerboer 2007; Weinzierl and Lisson 2007; Grant 2011) Harmful policies need to be reformed Protective policies (e.g. search and rescue, asylum, human rights) need to be strengthened

Cyclical /reciprocal	Policies and deaths evolve in relation to each other.	The argument that border controls protect migrants “becomes self-reinforcing – justifying even stronger measures” (Weber and Pickering 2011: 163) “spectacle of bare life is... instrumental to the functioning of migration management at Europe's southern border” (Dines, Montagna and Ruggiero 2015: 431) “deadly cycle of deviancy amplification” (Weber 2010:37-38) “off beam and increasingly mechanic external border choreography”, “vicious cycle” (Van Houtum (2010: 959, 965)
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Underlying arguments about the relationship between EU border deaths and policy, is a common assumption that states’ attempts to select a particular group of people for *physical* exclusion from their territory materialise as *social* exclusion or even preclusion. Exclusion is discussed in the literature in various frames, including living death or bare life (e.g. Dines, Montagna and Ruggiero 2015; Schindel 2016; Squire 2017), biopolitics (e.g. Kiza 2008; Topak 2014; Squire 2017), racial discrimination and racism (e.g. Saucier and Woods 2014; Fekete 2004; Shields 2015), dehumanisation (e.g. Pugh 2004; Weber and Pickering 2011; Shields 2015), indifference (e.g. van Houtum and Boedeltje 2009; Weber 2010; Basaran 2014, 2015), inequality (e.g. van Houtum 2010; Heller 2015; Oliveri 2016), economic value (e.g. Ferrer-Gallardo and van Houtum 2014; Heller and Pezzani 2016; Kovras and Robins 2016), and crimmigration (e.g. Webber 2004; Spijkerboer 2007; Weinzierl and Lisson 2007). Migration policies classify would-be travellers (including one-time and regular visitors, and residents) and assign different entry conditions to each category. Entry requirements for international travellers range from open-border conditions to absolute prohibition, via various degrees of restriction.<sup>114</sup> If a traveller does not meet the requirements of his or her category then he or she will generally be denied entry. As categories are primarily based on nationality, socio-economic and labour market indicators, nationality law, class and bureaucratic obstacles such as quotas have serious implications for individual travellers (Weber 2010: 38, 43), even before they have themselves taken the decision to travel (Saucier and Woods 2014: 70). This is especially the case for people in need of international protection (Fekete 2004: 75; Tazzioli 2015: 3; Pickering and Cochrane 2013: 38; Webber 2004: 136) and for racialized people (Fekete 2004) whose criminality is “presupposed, prior to any action or non-action” (Saucier and Woods 2014: 70) because they are classified by European migration policies as high-risk travellers (Pickering and Cochrane 2013: 40). The migration policies of the EU and its Member States reflect which travellers policy-makers in these states consider to be desirable and which not, establishing an inherently discriminatory, hierarchical, “moral distinction between the value of human beings” (Ferrer-Gallardo and van

<sup>114</sup> Entry requirements can include identity documents, visas, a standing offer for a job or placement at an educational institution, financial statements, sponsors, language requirements, vaccinations, and medical tests and examinations. Entry for certain categories of would-be traveller is conditional on their ability to produce evidence satisfying these requirements, as well as on their savings, specific familial relations, criminal record, qualifications, or whether they applied to enter before the quota for their category was met.



Houtum 2014: 299; similar arguments: van Houtum and Boedeltje 2009: 226; Shields 2015: 83; Squire 2017: 3). The enforcement of this distinction before and at borders cannot physically preclude the presence of those the EU has deemed undesirable. The emergence and continuation of irregular migration is widely considered to be evidence that cross-border movement is a given fact (e.g. Spijkerboer 2007: 131; Grant 2011: 140). “Surveillance systems cannot establish total control over border regions” (Topak 2014: 822). As Ferrer-Gallardo and van Houtum (2014: 297) put it: “Migrants will still come, no matter how high the fence is”. Instead, the enforcement of migration categories determines whether travellers are socially acceptable or excludable. Only socially excludable groups face the risk of border death.

Immigration policies classify which travellers have access to international travel and EU territories (Schindel 2016: 5; van Houtum and Boedeltje 2009: 229; Pickering and Cochrane 2013: 32). Enforcement of these policies at designated departure and entry points (e.g. through carrier sanctions, cooperation with third countries and technological advancements in border controls) determine access to safe and legal means of international transport (Heller 2015: 205; Weber 2010: 36). The significance of the EU external borders for border deaths is the concentration of enforcement of European migration policies (Spijkerboer 2007: 136). Half the works reviewed in this study tie EU border deaths to policies that determine and enforce the accessibility of safe international travel. As Heller (2015: 192) notes, “the high level of risk experienced by illegalised migrants as they cross the sea is the exception in a time of generally safe maritime transport”. According to a third of the works reviewed, such policies are responsible for the very existence of irregular migration, especially by sea, and/or the informal economies and criminalised enterprises that have grown to meet the demand for irregular travel services (“traders in the commerce of illegalised passage”, Heller and Pezzani 2016: 17). These phenomena are states’ own making (Lutterbeck 2006: 78). For example, Dines et al (2015: 432) attributes “the metamorphosis of Lampedusa into a destination for irregular migrants” as a result of the Italian ‘Martelli Law’ that increased visa requirements and imposed carrier sanctions in accordance with EU law: “before this law... there were no ‘illegal’ crossings of the Mediterranean Sea”. As Pugh (2004: 58) describes, “boat owners, pilots and crews do not create the demand for their services”. By restricting legal migration pathways, states do not reduce migration but expand irregular migration pathways (van Houtum 2010: 973; Ferrer-Gallardo and van Houtum 2014: 297; Schindel 2016: 4; Pickering and Cochrane 2013: 31). In this way, the border is not only a barrier but also a filter that defines and decelerates movements (Tazzioli 2015: 5; Spijkerboer 2013: 214) and turns certain travellers into a cheap and exploitable labour force (Heller and Pezzani 2016: 5).

Some people selectively excluded by migration policies use irregular entry routes and cross-border transport to enter the EU. Descriptions vary as to whether this is by choice, or if people are provoked or forced into irregular migration. Some academics bypass the agency-structure nexus; for example, Topak (2014: 817) describes migrants as “end[ing] up at the border zones where they encounter diverse surveillance practices”. Nonetheless, in most works in this study, irregular migration is presented as the only possibility for travellers officially excluded from EU territory. For instance, Oliveri (2016: 19\*) describes how “[f]amilies of missing

Tunisians... stress the lack of alternatives their sons face when deciding to leave and accept the risks of the journey: ‘they left crossing the Mediterranean in the only way allowed to them’. Families of the dead and missing also often travel with no legal status and pay excessive amounts to expedite the process of finding or repatriating or burying their relatives (Kovras and Robins 2016: 45). Certainly, it is generally understood that “those who cross irregularly do so because they are unable to enter ‘lawfully’” (Pickering and Cochrane 2013: 40).

Irregular migration initially employed deception, either to obtain a valid visa or by using false documents (Webber 2004: 136), to gain access to regular international transport (Last and Spijkerboer 2014: 88). As technological advancements made these strategies more difficult and expensive, irregular migration emerged predominantly as clandestine crossings between designated border points to avoid officials enforcing immigration rules (Spijkerboer 2007: 128). These in-between spaces are considered to be hazardous (Shields 2015: 89) and journeys across them precarious (Heller and Pezzani 2016: 10). As Pugh (2004: 56) writes, “[e]ven if lives are not lost, disease, severe debilitation and sometimes psychological distress attend many voyages”. For Mountz and Loyd (2013: 178), “the accumulation of bodies – both the living and dead – attest to the difficulty of crossing”. For some, this is the natural state of migration (especially across the sea) when developments that keep travellers safe are absent. Irregularised travellers are locked out of safe passages (“le cadennassage des routes sûres”, Blanchard et al 2012: 136), abandoned to deserts and seas (Squire 2017: 5), “pushed into the realm of mere survival, a life reduced to its biological existence” on routes “where they are exposed to death by ‘natural’ or organic factors” (Schindel 2016: 4-5) or death by “the criminal or negligent actions of smugglers and traffickers” (Grant 2011: 136). For others, irregular migration is dangerous when it has been irregularised, and its facilitation criminalised. Irregularised travellers are targets of military and police, and of smugglers and traffickers (Shields 2015: 86). Man-made obstacles such as minefields, razor wire fences and border patrols are placed between regular border-crossing points making crossing there dangerous (Topak 2014: 827; Last and Spijkerboer 2014: 91) and suffocation is a known risk of stowing away in containers or on ships (Carling 2007: 330). As Topak (2014: 817) claims: “Migrants experience the most extreme effects of othering and abjection in the border zone space”. Either way, irregular entry routes and cross-border transport are dangerous, carrying risks not associated with regular entry routes and cross-border transport, including death.

There is a general impression that irregular migration has become *more* dangerous and that deaths are *increasing*. With the emergence of irregular migration came the state objective to prevent illegal immigration. According to academic literature, measures to prevent irregular entry and disrupt the businesses/networks that operate irregular transport have made irregular migration more dangerous and deadly. Some associate the increase in danger for irregularised travellers with the intensity of border control measures. For instance, in their analysis of the relationship between border deaths and border policies, Williams and Mountz (2016: 43) found “strong, positive correlations between the intensity of operations, as measured by their real budgets and days active, and most measures of migrant/boat losses”. Of course, it matters what kind of measures are being intensified: according to Topak (2014: 827), “the biggest threats



now are the pushback, interception, and diversion operations”. Others attribute dangers for irregularised travellers to the securitisation or militarisation of border control. For example, van Houtum (2010: 968) claims that “the detection phase of the border machine...has increasingly become a lethal phase” as securitisation has grown. In 2007, Spijkerboer predicted that deaths would increase “because of the intensified security and surveillance orientation” of the European Council’s proposals (Spijkerboer 2007: 132). Jones and Johnson (2016: 196) argue that, from a military perspective, making irregular journeys more dangerous for migrants increases the chances of defeat. Pickering and Cochrane (2013: 29) also noticed that “governments have promoted border protection as a means of decreasing the number of deaths that occur at or near their borders, ironically often by enhancing the risk of death posed by crossing them”. Generally, border policies have made irregular migration more dangerous by changing and multiplying the risks faced by irregularised travellers (Weber 2010: 41).

Several academics stop their argument there, satisfied with the salience of the claim that irregular migration is more dangerous, deadly or perilous, having identified the problematic policy or practice responsible for this increased danger. Some go further to explain *how* irregular migration has become more dangerous.

One of the dominant explanations is that easier routes are “seal[ed] off” by border control (Fekete 2004: 75), surveillance (Weber 2010: 36) or bilateral agreements between departure and arrival countries (Grant 2011: 138), displacing the smuggling networks that facilitate irregularised travellers to routes that are more dangerous. Certainly in the literature, the multiple routes into an EU member state are presumed to be related: academics typically describe “shifts”, “diversion” or “displacement” from the Strait of Gibraltar to the Alboran Sea and Atlantic Ocean (entry point: Spain) (e.g. Carling 2007; Weber 2010), from the Adriatic Sea to the Strait of Sicily (entry point: Italy) (e.g. Albahari 2006; Lutterbeck 2006), and back and forth between the Evros region and the Aegean Sea (entry point: Greece) (e.g. Topak 2014). It appears that academic understanding of the relationship between irregular migration routes is restricted by methodological nationalism, reflecting nationalised data production. However, in recent literature, associations have been made across the Mediterranean: for example, Mountz and Loyd (2013: 186) relate the (re)emergence of the land route between Turkey and Greece to the intensification of maritime enforcement in the Strait of Sicily and the Atlantic Ocean. Similarly, Oliveri (2016: 6\*) attributes the increase in popularity of the Central Mediterranean route in part to “stronger militarisation at land borders”. The newer routes are considered to be more dangerous because they are “convoluted” (Weber 2010: 37) or less “direct” (Klepp 2011: 5). More dangerous routes may involve crossing more difficult terrain or geological obstacles, such as fast-flowing rivers, open seas, or mountains (Last and Spijkerboer 2014). Routes are also considered to be more dangerous if they are substantially longer, partly because this increases the time that travellers are exposed to the risks of the journey (Fekete 2004: 76; Weber 2010: 37; Weinzierl and Lisson 2007: 18) and partly because long journeys open up new risks (Fekete 2004: 78), such as being “away from areas where there is an established humanitarian infrastructure to receive them” (Carling 2007: 327).

The general thesis is that making one route more difficult to cross leads irregularised travellers to use ‘alternative’ routes that are more dangerous (Spijkerboer 2007: 127). For some, the

formation of new routes is steered by the smugglers who “move elsewhere in search of entry points with less policing” (Mountz and Loyd 2013: 178), usually points which are “harder to control” (Topak 2014: 821). For others, diversion is an intended or foreseeable outcome of enforcing restrictive policy. Schindel (2015: 5) describes this as a “strategy [of] deterring potential immigrants or refugees by deflecting them into dangerous zones and hence to bigger risk of death”. In constructing this relation between irregular routes, death and policy, parallels are often drawn with border deaths in other regions of the world. In particular, arguments reflect research on the US-Mexican border where an increase in deaths were a foreseen, deliberate outcome of the US Border Patrol strategy in the 1990s, pertinently named “Prevention Through Deterrence” (Weber and Pickering 2011). For instance, Carling (2007: 326-327) describes the shift in numbers of travellers using the Strait of Gibraltar route to the Atlantic route but references Cornelius’ (2001) research on the US-Mexico border as evidence of the increased risk associated with diversion. While the in-depth comparative work of Weber and Pickering (2011) demonstrated the many parallels between “migratory fault lines” along which deaths occur (Grant 2011), Williams and Mountz (2016: 43-44) found there to be insufficient data to determine whether diversion of routes is related to an increase in loss of life in the Mediterranean specifically. Thus, the understanding that irregular migration has become more dangerous because easier routes have been shut down remains hypothetical in the EU context, albeit common to academic literature.

**Table 5.2 High-risk strategies for border-crossing and border control that can result in death of travellers**

<b>Actors and their aims</b>	<b>High-risk strategies</b>
<i>Smugglers and migrants</i>	
Avoid arrest	Dangerous maneuvering at sea
	Offloading passengers at sea
	Inexperienced drivers
Enhance profitability	Overcrowding
	Lack of supplies/equipment
	Disposable boats
Increase chances of entry to EU	Unsafe boats (undetected or intended to force rescue)
	Concealment
	Travelling in bad weather/at night
	Waiting
	Coordinated mass arrivals
<i>State and non-state patrol/rescue actors</i>	
Ensure interception/rescue	Dangerous maneuvering and pursuit at sea
Avoid responsibility	Ill-equipped or inappropriate operations
	Avoiding rescue
	Preventing disembarkation
	Pushbacks
	Keeping deaths out of sight

A second explanation presented in the literature of how irregular migration has become more dangerous is that escalation of the struggle between law enforcement, irregularised travellers and smugglers has led all parties involved to adopt high-risk strategies to achieve their particular goals: law enforcement aims to prevent illegal cross-border activity, travellers seek

to enter the EU and smugglers are trying to make money. These strategies, all associated with border deaths, are presented in Table 5.2.

Smugglers and migrants adopt high-risk strategies to avoid arrest, enhance profitability and increase the chances of border-crossers entering the EU (e.g. Last and Spijkerboer 2014; Weber 2010: 37). Smugglers deliberately organise departures during bad weather or coordinate mass departures to reduce the chances of interception and increase the likelihood of entry for their clients (e.g. Carling 2007: 324; Topak 2014: 815, 827). Migrants may be required to wait for long periods of time for an opportune moment to depart or conceal themselves in places that expose them to the risk of suffocation (e.g. Weber and Pickering 2011: 27; Spijkerboer 2013: 231; Topak 2014: 827). If smugglers are on board vessels, to avoid arrest they may offload passengers before reaching the shore so that they can make a quick getaway (e.g. Lutterbeck 2006: 69; Fekete 2004: 79). As Weber (2010: 37) describes, illegalised travellers are “incriminating evidence, at risk of being disposed of at the sight of approaching patrols”. Another way for the smuggler to avoid arrest is not to be on board at all, but leave inexperienced migrants to drive the boats (e.g. Carling 2007: 328; Kiza 2008: 228, 233, 326). The quality of vessels used in irregular migration is often poor even though they may be purpose-built, at least in part because most vessels will only make one journey as they are routinely confiscated or destroyed after interception (e.g. Cuttitta 2004: 9-10). Some vessels are small, which increases the chances of not being spotted by border surveillance but also increases the risks of being on the high seas (e.g. Cuttitta 2004: 9-10; Klepp 2011: 6). Vessels are also made unsafe by taking on board too many passengers (e.g. Cuttitta 2004: 9-10; Carling 2007: 327; Topak 2014: 823) or by damage during the journey, sometimes inflicted deliberately to force European authorities to allow passengers to enter the EU (e.g. Carling 2007: 321). Risks are also incurred because vessels are not properly equipped for the journey, having insufficient fuel, water, food or safety equipment (life jackets, flares, etc) on board (e.g. Klepp 2011: 6; Weber and Pickering 2011: 27, 165; Heller 2015: 210).

State actors and (potential) rescuers also take risks associated with border deaths, including strategies to ensure interception/rescue and to avoid responsibility for irregular border-crossers (Basaran 2014). Border patrols seeking to intercept and merchant crews attempting rescues have been known to manoeuvre dangerously and – in the case of border patrols – pursue vessels carrying irregularised travellers (e.g. Lutterbeck 2006: 68; Heller and Pezzani 2016: 1). Strategies to prevent illegal entry that impose high risks on irregularised travellers include being pushed back to no-man’s land or the high seas by border guards (e.g. Topak 2014: 815, 824, 827; Schindel 2016: 5). Several of the high-risk strategies of smugglers and migrants outlined above, developed in response to direct violence and pushbacks by state officials operating along the border (e.g. Topak 2014: 827-828). For Mountz and Loyd (2013: 178), the escalation between border enforcement and smugglers increase collateral risks for migrants. Weber (2010: 37-38) describes this relationship between law enforcement and criminalised border-crossing as “a deadly cycle of deviancy amplification”.

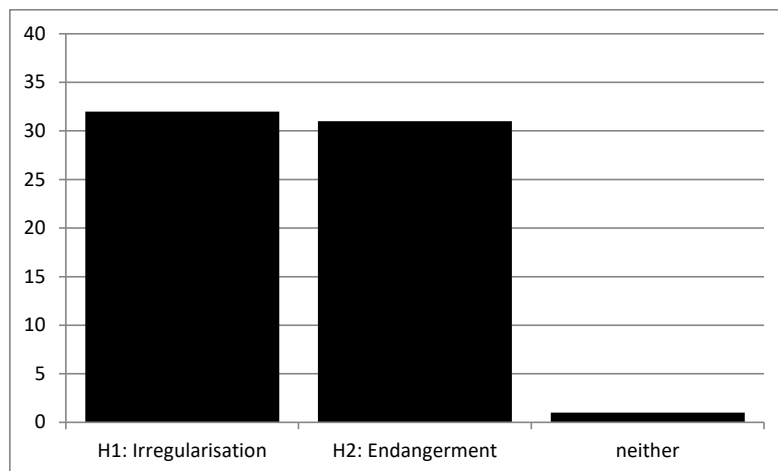
The remaining strategies in Table 5.2 associated with avoiding responsibility can be grouped under ‘rescue politics’. Search and rescue has become a major aspect of the relationship between border deaths and policy. Under international law, states are obliged to coordinate

responses to distress calls in designated search and rescue areas which include their territorial waters and delineated stretches of the high seas (Pugh 2004). Southern EU member states have taken remarkable measures to rescue people in distress at sea, but they have also fallen short of their international obligations (Weinzierl and Lisson 2007). In short, there are two issues associated with rescue of irregularised travellers: first, that irregular migration by sea has dramatically increased the search and rescue operations and coordination in southern EU Member States, and second, that rescued migrants are likely to be brought to the state of the search and rescue area where they can claim asylum and other forms of protection. States want neither the (sole) responsibility of coordinating so many rescue operations, nor that of processing claims for international protection (e.g. on Malta: Klepp 2011). Strategies employed to avoid these responsibilities include preventing disembarkation of rescued migrants in EU member state ports and various methods to pass these responsibilities to departure countries (e.g. joint operations, patrolling just on the edge of third countries' territorial waters) (e.g. Weinzierl and Lisson 2007: 13; Klepp 2011: 6-20; Mountz and Loyd 2013: 182). In addition, anti-smuggling measures have discouraged rescue by non-state seafarers (fishermen, merchant ships) (e.g. Blanchard, Clochard and Rodier 2012: 135; Raeymaekers 2014: 164; Basaran 2014, 2015), and retrieval of dead bodies found in fishing nets or floating at sea along major irregular migration routes (Albahari 2006). In combination with the externalisation of patrol and rescue, states have sought to avoid responsibility by keeping border deaths out of sight (e.g. Cuttitta 2004: 12; Albahari 2006: 20; Weber 2010: 43-44; Grant 2011: 139).

A third common explanation for the increase in danger faced by irregularised travellers is that the escalation of efforts to combat illegal immigration and smuggling has undermined existing protection mechanisms. The law of the sea is a prime example. In Pugh's (2004: 58) words: "coastal destination states have exposed uncertainties, gaps and room for discretion that relate to distress and safety at sea, disembarkation, interception and search and rescue". Although law enforcement authorities engage in search and rescue, political pressure is focused on enforcement of national and EU law (Klepp 2011) and "surveillance is expressly stated as being the main mission, saving lives being of only secondary concern" (Spijkerboer 2007: 135). In fact, there are no concrete policy measures that protect the lives or rights of irregularised travellers (Spijkerboer 2007; Weinzierl and Lisson 2007). Instead, "human rights are suspended in favour of sovereign practices, and migrants are left to die" (Topak 2014: 816).

Two common hypotheses about how EU border deaths are related to policy emerge from academic literature. First, deaths occur because migration policies irregularise travel for certain people (hypothesis 1: irregularisation). Second, deaths continue, or increase, because border policies make irregular travel more dangerous by diverting routes, prompting high-risk strategies and undermining protection mechanisms (hypothesis 2: endangerment). Weinzierl and Lisson (2007), Klepp (2011), Basaran (2014, 2015), Williams and Mountz (2015) and Jones and Johnson (2016) do not contribute explicitly to hypothesis 1 (irregularisation) because their contributions do not question the emergence of irregular migration. Meanwhile, van Houtum and Boedeltje (2009), van Houtum (2010), Saucier and Woods (2014), Dines, Montagna and Ruggiero (2015), Tazzioli (2015), Squire (2017) and Kovras and Robins (2016) do not contribute explicitly to hypothesis 2 (endangerment) because their contributions do not

address particular border control practices. Only one of the works included in the study contributes to neither hypothesis (Perkowski 2016). Nonetheless, as Figure 5.1 shows, where the scope of their research is appropriate – and occasionally even where it is not – most scholars have presented ideas that can be grouped under each hypothesis.



**Figure 5.1. Number of reviewed works contributing to common hypotheses about the relationship between border deaths and policy**

In sum, it is unclear what type of relationship exists between EU border deaths and policy because a relationship is presumed and therefore not thoroughly discussed. Types of relationship emerge from the literature, justifying assumptions about the capacity for states to physically exclude particular people from their territories and about the consequences of states' attempts to do so. However, scholars have been quite consistent and precise in their ideas about *how* policies relate to border deaths in practice. The study found two hypotheses common to the majority (see Figure 5.1) of academic literature: that deaths occur because migration policies irregularise travel for certain people (irregularisation), and that deaths continue, or increase, because border policies make irregular travel more dangerous (endangerment).

## **Study 2: How do policy-makers understand the relationship between EU border deaths and policy?**

### ***Method***

Policy documents present objectives and operational measures, from which a particular rationale for a topic can be interpreted. Thus, EU policy documents reveal how policy-makers understand the relation between EU border deaths and policy.

The search for relevant policy documents was conducted via EUR-Lex in December 2017 using the search terms “loss of life”, “tragedy”, “death” and “saving lives” along with “external

borders”. The results of these searches were filtered according to the relevance of their subject area. No temporal or document type filters were imposed.

The final selection consists of 27 EU policy documents, including the Hague Programme, legislation, communications and opinions from the Commission and the European Economic and Social Committee (EESC), European Parliament resolutions, statements from the European Council and EU Presidency, and the European Agenda on Migration, covering the period 2005-2017.

Data on the phrasing of the objective to prevent deaths, operational measures presented to meet the objective, the relation with other policy objectives, and explanations of border deaths was gathered from these EU policy documents.

### **Findings**

In 2005, the Hague Programme introduced a new policy objective to “prevent further loss of life” along the EU external borders. In subsequent EU policy documents, the phrasing of the objective diversified, including “reducing loss of life” and “protecting and saving lives”. While similar, these are not synonymous. “Prevent” is more ambitious than “reduce” and “protect” defines the effort rather than the outcome. These variations suggest that EU policy-makers were exploring the appropriate actions or goals, suggesting uncertainty concerning how border deaths were related to (EU) policy. “Reducing” deaths was dropped in 2013, last seen in the EUROSUR Regulation. “Preventing” deaths and “saving” lives have been used interchangeably but there seems to be a divergence in the use of these terms between EU institutions. The European Parliament has consistently stated the overarching objective as “preventing further loss of life”, presenting “saving lives” as one of the means of achieving this goal. Meanwhile, EU Regulations have only ever utilised the phrase “saving lives”; whereas this was stated as a formal objective of EUROSUR,<sup>115</sup> Regulation 656/2014 (laying down the operational rules of Frontex) makes it explicitly clear that border surveillance does not *purport* to save lives although it may contribute to this objective.<sup>116</sup> The European Commission has also, since 2014, consistently preferred the phrase “saving lives” as an EU objective; distancing the EU from the – arguably more ambitious – objective to prevent deaths by designating this as a commitment of Member States.<sup>117</sup> In 2013, the European Commission introduced a new variation of the objective, “to prevent migrants from undertaking dangerous journeys”; in 2016 this evolved to discouraging refugees, specifically, from dangerous journeys. In sum, while the phrasing has evolved over the last decade, and different EU institutions have demonstrated different commitments, the policy objective has stuck. In 2015, the European Parliament called for the EU and Member States to do “everything possible” and the European Council promised to “mobilise all efforts at its disposal” to prevent deaths (Statement of 23 April 2015; EP Resolution of 29 April 2015).

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<sup>115</sup> COM(2008) 68; Regulation 1052/2013, Art.1

<sup>116</sup> Regulation 656/2014, Preamble (1)

<sup>117</sup> “Member States have also committed to concrete steps, notably to avert further loss of life” (COM(2015) 240)

From its inception, the objective was intertwined with that of preventing illegal entry into the EU, seen as a threat to the credibility of the common immigration policy under construction in Europe (COM(2006) 402 final, para 5). Border deaths are consistently recognised as a phenomenon that only affects people who attempt to enter the EU irregularly; for instance, the European Parliament notes “the risks and fatal consequences of *this type* of immigration” (EP Resolution of 18 December 2008, my italics). The Global Approach to Migration annexed to the Presidency Conclusions of December 2005 merged the two objectives: “Action must be taken to reduce illegal migration flows and the loss of lives”. The European Commission’s objective to prevent migrants and discourage refugees from undertaking dangerous or perilous journeys fuses these two objectives (COM(2013) 869, section 1; COM(2016) 85, section III.6). Other EU institutions maintain a distinction between preventing deaths and preventing illegal immigration (e.g. in European Parliament resolutions). Nonetheless, the European Parliament has recalled a commitment to preventing illegal immigration in every resolution issued on preventing deaths, and the European Council presents preventing illegal immigration as contributing to preventing deaths. The association between these two objectives reflects how border deaths were initially explained in policy documents. For instance, in the Hague Programme (2005: para 1.6.1), these “human tragedies” were introduced as “a result of attempts to enter the EU illegally”, and migrants have been described as “taking great personal risks in their attempts to enter the EU illegally” (SEC(2008) 151, para 2.2.2; COM(2008) 68, para 2.2.3). In this manner, these documents related deaths not to European policies, but to the risk-taking behaviour of migrants. Preventing illegal immigration is presented as a way of saving migrants from themselves: As the European Commission stated in 2013, cooperation with third countries is needed “to prevent persons from attempting to enter the EU through irregular channels, and put their life at risk by undertaking dangerous journeys towards Europe” (COM(2013) 869, para 3.1). “Saving lives” was formalised as one of EUROSUR’s general objectives (COM(2008) 68; Regulation 1052/2013, Art.1), but EUROSUR had initially been envisioned to improve border surveillance for the purpose of monitoring irregular routes across the Mediterranean with a view to closing them down (Rijpma and Vermeulen 2014).

Similar connections have also been made between the objective to prevent deaths and the objective to combat cross-border crime, often described as an international obligation because all EU Member States are signatories to the Convention Against Transnational Organised Crime and the Smuggling and Trafficking Protocols. Smugglers and traffickers have consistently been held responsible for “putting lives at risk” and the deaths that result from dangerous journeys across the Mediterranean, but since 2013 their responsibility for deaths has been stated more explicitly in EU policy documents. Resolution 1872 (2012), passed by the Parliamentary Assembly of the Council of Europe, which presented the conclusions of an investigation into the “left-to-die boat”,<sup>118</sup> was cited by the EESC in their 2014 Opinion on Irregular Immigration by Sea as describing “the role played by migrant smugglers in organising dangerous crossings” and stated that this “should be taken into consideration for the purposes

<sup>118</sup> The so-called “left-to-die boat” drifted at sea for 14 days, the distress calls of its passengers largely ignored, before drifting ashore in Libya. 9 of 72 passengers survived. In addition to describing the role of smugglers in the situation that led to the deaths of 63 people, Resolution 1872 (2012) concluded that the tragedy was the result of numerous failures by various states and intergovernmental organisations, including several EU Member States.

of understanding the gravity of the matter”. The EESC goes on to “stress that the EU must act in the most forceful way possible to stop people smugglers from operating and putting lives in danger”, thereby merging the objective of preventing deaths with that of combatting cross-border crime. In their 2014 and 2015 Resolutions, the European Parliament explicitly holds smugglers and traffickers responsible for border deaths in light of the risk their businesses pose to migrants’ lives.<sup>119</sup> The focus of recent Regulations and Council Decisions mentioning border deaths have been on combatting smugglers and traffickers through intensified policing and military actions (Council Decision (CFSP) 2015/778 establishing EUNAVFOR MED; Regulation 2016/1624 establishing the European Border and Coast Guard).

Overall, there appears to be a shift in policy documents and EU legislation from preventing or reducing deaths by combatting illegal immigration, toward saving lives by combatting smugglers. Combatting smugglers is an important way of combatting illegal immigration, but the focus of blame shifts from the migrant to the smuggler and the migrant is victimised. Thus, this trend appears to be related to a noticeable shift in understanding of deaths as the consequence of migrants taking risks, to one of smugglers taking risks. This understanding is sometimes explicit, as described above. On other occasions, it is demonstrated through the operational measures proposed to meet the objective of preventing deaths. In particular, one of the original measures proposed was to campaign in origin and transit countries to inform potential migrants of the risks of illegal immigration and to raise awareness of legal migration options (e.g. Hague Programme, paras 1.6.1 and 1.7.1; Presidency Conclusions 2005; EP Resolution of 18 December 2008; SEC(2010) 535). More recently, campaigns are proposed to inform migrants of threats posed by smugglers and traffickers (e.g. COM(2013) 869; EP Resolution of 17 December 2014). There has also been increasing recognition of the necessity of improving legal pathways to the EU, such as resettlement and humanitarian visas for asylum seekers, family reunification for relatives of EU residents and expanded labour and educational migration opportunities to meet the growing demographic demand (e.g. COM(2013) 869; EP Resolutions of 29 April 2015 and 10 September 2015; COM(2015) 240; COM(2016) 85; COM(2017) 558). Migrant blaming still continues,<sup>120</sup> but smugglers now appear to be primarily responsible for border deaths according to policy-makers.

The objective to prevent deaths has also been associated in policy documents with EU development objectives for third countries, especially in Africa. For instance, there are standard references to the need to deal with “root causes” of migration, including war, terror, underdevelopment and poverty (e.g. EP Resolution of 23 April 2015; COM(2016) 85), and the need to help refugees “closer to home”, in the sense of providing financial and other forms of support to transit countries (e.g. Niger) and third countries hosting large numbers of refugees (e.g. Turkey). However, most measures focusing on third countries, boil down to capacity building in the area of border control and migration management, i.e. contributing to preventing illegal immigration to the EU and combatting cross-border crime.

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<sup>119</sup> EP Resolution 2907 of 17 December 2014, Preamble B; EP Resolution 2660 of 29 April 2015, Preamble G; EP Resolution 2833 of 10 September 2015, Preamble C.

<sup>120</sup> E.g. “The plight of thousands of migrants *putting their lives in peril* to cross the Mediterranean has shocked us all.” (COM(2015) 240, my italics)



Various operational measures proposed to meet the objective of preventing deaths have already been mentioned: border surveillance, cooperation with third countries, information campaigns, and intensification and militarisation of border policing. One operational measure specific to the objective of preventing deaths, especially in terms of “saving lives”, is search and rescue. Improving search and rescue has been a focus of calls for cooperation and solidarity between Member States, cooperation with neighbouring countries, capacity building in Member States and third countries, border surveillance, Frontex expansion, and military operations in almost all policy documents reviewed in this study. Search and rescue is recognised both as an international obligation and as an emergency response to crises. It is the measure most explicitly related to the objective of “saving lives”.

In sum, in EU policy documents, the policy objective of preventing further loss of life along the EU external borders is premised on a relationship between policy and border death. This relationship is presumed and never clearly explained. However, studying the policy documents that make reference to this objective and the measures proposed to meet the objective has revealed something of why border deaths occur according to policy-makers. Policy documents inevitably reflect a medley of opinions and perspectives, but the findings presented in this section point towards two dominant hypotheses: first, that deaths occur because people travel illegally, and second, that deaths continue because smugglers act ruthlessly. There is some recognition of the differences in living standards between origin and transit countries and the EU, and of the role of EU migration policy in restricting legal channels, but these are not dominant and are not (yet) reflected in the operational measures implemented to meet the objective to prevent deaths.

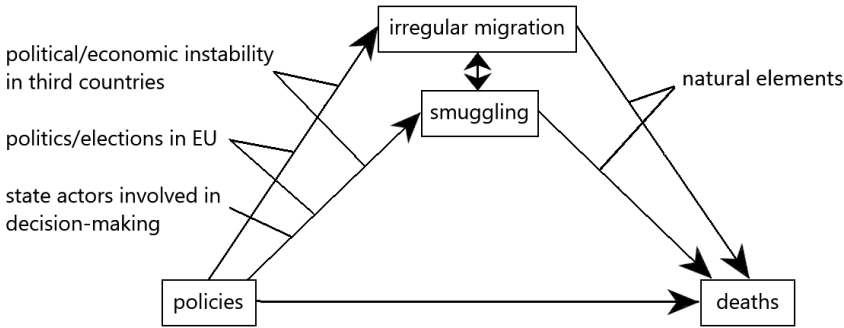
## Discussion

A relationship between EU border deaths and policy is generally presumed. However, it is remarkable how divergent the understandings of the nature of that relationship are between academics and policy-makers. This discussion section compares the two sets of hypotheses and their underlying rationales found in the studies presented above, with the aim of identifying major differences and the implications of these differences. To illustrate exactly where the divergence lies, the section also presents a model in which irregular migration and smuggling mediate the relationship between policies and deaths.

A minority of border deaths result directly from specific state acts (Spijkerboer 2007; Kiza 2008; Weber 2010), establishing a direct relationship between policy and deaths. However, the process of the relationship between policy and the *majority* of border deaths is determined by irregular migration and smuggling. Border deaths occur during irregular migration and often during smuggling operations. The studies presented in this chapter indicate that policy-makers and academics understand irregular migration and smuggling to result in deaths for largely the same reasons. Irregular migration attracts attention from law enforcement, involves exposure to dangers that no longer affect regular migration and falls outside the scope of many legal protection mechanisms. Smugglers have considerable control over irregular migrants, which

they may or may not exploit, sometimes employing dangerous strategies and means of facilitating irregular migration to profit from evading law enforcement. Natural elements, such as weather conditions, darkness, the sea or terrain, can influence the risk of death or numbers of fatalities. But these do not determine the nature of the relationship between policy and deaths in the same way as irregular migration and smuggling are understood to do by both policy-makers and academics. Policy-makers and academics also acknowledge (implicitly or explicitly) a range of external factors that influence the relationship between policy and irregular migration/smuggling. For instance, political/economic instability in third countries and politics within the EU can affect the proportion of unwanted immigrants who desire to enter the EU but are excluded from regular entry routes and cross-border transport. Politics within the EU and which state actors are involved in making policy in this field affect the relationship through different political and practical approaches to irregular migration and smuggling. Politicians may be more or less concerned with preventing illegal immigration in their elected term, public opinion may be swayed by events such as the shipwrecks of October 2013 or April 2015, and the military take a different approach to combatting smugglers than customs police or coast guards. In general terms, policy-makers and academics would agree on these aspects of the presumed relationship. Most points of contention arise concerning the nature of the relationship between policy and irregular migration/smuggling, which will be discussed shortly.

The model presented in Figure 5.2 illustrates the relationship between EU border deaths and policy as described. In this model, irregular migration and smuggling are behaviours determining the process that occurs to create the relationship between policies and deaths, also known as mediating variables. Irregular migration and smuggling are also closely related to each other, as indicated by the arrows between them. Factors affecting the relationship between policy and irregular migration/smuggling or between irregular migration/smuggling and deaths are shown in the model as moderating variables, variables that influence the strength or direction of an existing relationship by influencing when and under what conditions a certain effect (increase/decrease) may occur in the relationship. The moderating variables included in Figure 5.2 are not exhaustive, rather they are meant to indicate the distinction between mediating and moderating variables in the relationship between EU border deaths and policy. The model shown in Figure 5.2 is unidirectional, with policy as the independent variable and deaths the dependent variable, because this aspect of the relationship is more widely accepted. However, the model could arguably be adapted to show a cyclical or reciprocal relationship (see Table 5.1) between policies and deaths. In addition to the arguments presented in the literature that lend themselves to a cyclical or reciprocal relationship, the high number of policy documents prompted by particular incidents along the EU external border (especially the shipwrecks of October 2013 and April 2015) would support such an adaptation.



**Figure 5.2 Model of the relationship between EU border deaths and policy**

Returning to the points of contention between policy-makers and academics, the differences in their understandings relate primarily to state control over the mediating variables; the relationship between policies and irregular migration/smuggling. These differences are presented in Table 5.3 and explained in the following paragraphs.

**Table 5.3 Contrasting hypotheses on how EU border deaths are related to policy**

	<b>Academic literature</b>	<b>Policy documents</b>
<b>Hypothesis</b>	Deaths because people forced into irregular travel by restrictive policies	Deaths because people try to enter without authorisation
<b>Policy solution</b>	Less restrictive policies, mobility equality	Stronger enforcement of policies
<b>Hypothesis</b>	More deaths because border control forces people to take more risks and more dangerous irregular routes and cross-border transport	More deaths because smugglers act ruthlessly
<b>Policy solution</b>	Less border control, more humanitarian measures	Stronger policing of smuggling

Academics hypothesise that policies (such as the visa regime and its enforcement before and at the border) irregularise a certain population of international traveller, while policy-makers hypothesise that people who do not meet the requirements for legal travel can migrate illegally because border policies have not (yet) managed to prevent them from doing so. As a result of this difference in understanding of how the relationship works, policy-makers seek to strengthen measures aimed at preventing illegal immigration, including by influencing the situation in third countries, while academics recommend (re-)regularising this section of international travel by adopting less selectively restrictive migration and/or enforcement policies. As presented in the findings of study 2, it appears that this latter idea has been transmitted into policy-making in theory but not in practice. It has not yet displaced the idea of

preventing illegal immigration by enforcing restrictive policies, an idea that academics claim created and sustains irregular migration.

Interestingly, research suggests that those who enforce the objective to prevent illegal immigration on the ground share the same belief as academics that it cannot work. For instance, Andersson (2015: 96) writes: “Migration is something that will never stop,’ said Comendante Francisco, echoing a sentiment often repeated by border officials”. Border officials recognise that the different routes across the external borders are related, and that preventing irregular border-crossing at one point will not prevent irregular border-crossing altogether (Spijkerboer 2007: 130). Others who operate along the border also express the concern that efforts at the border are a futile solution to irregular migration: “MSF took it upon itself to intervene..., all the while (like Seawatch) reiterating that saving migrants in distress at sea could not put an end to deaths as long as the exclusionary EU migration policy remained in place” (Heller and Pezzani 2016: 19). International organisations have also recognised the problematic nature of borders; for example, in 2004 ILO research showed that “smuggling occurs because borders have become barriers between job seekers and job offers” (ILO 2004, cited in Grant 2011). Correlation between academic perspectives and those working along the border is not surprising considering that researchers who conduct field work commonly interview border officials and humanitarian workers.

Regarding the relationship between policies and smuggling, academics hypothesise that policies establish a dependence on smugglers by certain travellers and that border control provokes particular strategies and behaviours from smugglers; for instance, police presence changes routes, destroying boats decreases the incentive for smugglers to invest in seaworthy boats, and arresting smugglers deters them from getting on the boat, leaving inexperienced migrants at the helm. Meanwhile policy-makers hypothesise that people profit from cross-border criminal enterprises because they can and law enforcement has not (yet) been able to stop them. Academics, like policy-makers, would like to see abusive smugglers brought to justice for their treatment of migrants. However, where policy-makers envision this being achieved through harsher measures against all smugglers (irrespective of their specific role or treatment of the people whose migration they facilitate) and intensified, militarised border policing, academics recommend measures that focus on protecting migrants. Many academics primarily relate the power of smugglers to the creation of a market for irregular entry and cross-border transport by exclusionary policies and argue that regularising migration, or using different enforcement methods, would undermine this market. Study 2 revealed similar thinking in more recent EU policy documents, but only in relation to particular categories of travellers created and deemed acceptable by migration policies (e.g. limited numbers of pre-selected refugees, high-skilled workers, prospective students). Moreover, the law enforcement approach to smuggling is still dominant in policy documents and operational measures in this field.

Thus, although the structure of the relationship between EU border deaths and policy envisioned by policy-makers and academics follows the same model (Figure 5.2), their understandings of how this relationship works is significantly different. This explains the

divergence between academic policy recommendations and actual policy measures taken to address border deaths. The differences are particularly clear when one focuses on the relationships between policy (the independent variable in the model presented in Figure 5.2) and irregular migration/smuggling (the mediating variables in the model). Unfortunately, the paucity of data on EU border deaths (reference redacted), human smuggling (Baird and van Liempt 2016) and migration flows (Takle 2017; Singleton 2016) reduces the possibility of testing, quantitatively and longitudinally, which set of hypotheses is a better fit with reality.

One could argue that the EU's policy responses to border deaths comprise a natural experiment. For the first two decades, there was no public response to border deaths at the EU policy level. The crisis at "the EU's border" between West Africa and the Canary Islands and the "mass assault" of the border fences of Ceuta and Melilla in 2005 incited a policy-response from the EU. Since the adoption of a policy objective specifically addressing border deaths in 2005, the EU has pursued measures based on dominant understandings of the relationship between policy and deaths among policy-makers. In this natural experiment, deaths have continued and – based on the merging of search and rescue with border control as illustrated by the conversion of Frontex into the European Border and Coast Guard Agency – are expected to continue indefinitely. The result of this natural experiment, therefore, is that the policy objective to prevent deaths remains unmet. This result suggests that policy-makers understanding of the relationship between EU border deaths and policy is not a good fit for reality.

## Conclusions

This chapter has unpacked the relationship between EU border deaths and policy as it is conceived in academic literature and EU policy documents and compared these two perspectives. While a relationship is generally presumed to exist, there are significant differences between academics and policy-makers in *how* EU border deaths are understood to be related to policy. Resolving this debate is important because how the relationship is conceived informs political responses to border deaths.

Given that the majority of measures taken to address border deaths are no different from those intended to address prevention of illegal immigration or cross-border crime, some have argued that preventing deaths is not a serious objective of the EU but intended to give a humanitarian spin to a security agenda and soothe the European public's shock in the aftermath of a particularly visible shipwreck (see, for instance, on EUROSUR, Rijpma and Vermeulen 2014). However, policy is not written by one individual, but by many; for some, at least, this is a genuine aim. Regardless of motivation, preventing deaths along the external borders of the EU is a formalised policy objective, and one that is not being met.

The two studies presented in the chapter demonstrate that academics and policy-makers have distinct hypotheses about how the relationship works, resulting in divergent ideas about what measures are needed to meet the objective of preventing deaths. It should be of urgent concern to both academics and policy-makers as it indicates malfunctioning communication between

two sectors that should be working together to ensure that policies are evidence-based (see e.g. Geddes and Achtnich 2015; Geddes 2014). In general terms, policy-makers see weakness in the enforcement of the law where academics see the substance of the law and the method of enforcement as problematic. Unfortunately, the quantitative data does not exist to test which hypotheses are correct. However, considering that available evidence – not least, the ongoing phenomenon of border deaths – points towards policy-makers’ understanding of the relationship between EU border deaths and policy not being a good fit for reality, it may be time to test the common hypotheses of the relationship argued by academics for the past 14 years.