THE MEDITERRANEAN DIMENSION OF THE EUROPEAN UNION’S INTERNAL SECURITY

Sarah Wolff
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The Mediterranean Dimension of the European Union’s Internal Security

Sarah Wolff
Lecturer at Queen Mary, University of London, and Senior Research Associate Fellow at The Netherlands Institute for International Relations
# Contents

*List of Tables and Boxes*  
vi  

*Acknowledgements*  
vii  

*List of Abbreviations*  
ix  

Introduction  
1  

1 A Rational–Choice-Historical Institutionalist Approach  
18  

2 Justice and Home Affairs and Its Mediterranean Dimension  
47  

3 Legacies and States’ Preferences  
93  

4 Border Management in the Mediterranean  
119  

5 The Mediterranean Dimension of European Union Counter-Terrorism  
150  

6 Rule of Law Promotion in Egypt  
178  

Conclusions  
197  

*Annexures*  
218  

*Notes*  
222  

*Bibliography*  
235  

*Index*  
263
Tables and Boxes

Tables

1 Schematic presentation of the argument 42
2 Synthetic overview of key variables – border management case study 120
3 Synthetic overview of key variables – fight against terrorism case study 151
4 Synthetic overview of key variables – rule of law promotion case study 179
5 Synthetic overview of variables in the three case studies 198

Boxes

1 JHA decision-making rules before the Lisbon Treaty 51
2 JHA fields subject to ordinary legislative procedure under Lisbon 53
3 Projects of the Union for the Mediterranean 88
4 Main routes of migration identified in the Mediterranean 122
5 Preferred European Commission option for the revision of Frontex’s mandate 135

Annexures

1 2002–2010 JHA-related projects in the Mediterranean 218
2 Regional programmes: MEDA/JAI programmes (phase 1; total budget: €6 million) 219
3 Police and judicial cooperation in the action plans 220
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This research would also not have seen the light without the critical feedback received from various colleagues. It is linked to a broader thinking process started with other young scholars during a Challenge workshop at the London School of Economics. Debates on the Internal Security conundrum and the external dimension of Justice and Home Affairs were truly stimulating for this research.

The gist of this book is the result of intensive fieldwork in Morocco, Egypt and Jordan, where I enjoyed exchanging views on the prospects of the region and its relationship with the European Union (EU). The latest stages of this book were completed between January and April 2011, in a context of profound changes for the region. An iron curtain has fallen for citizens on both sides of the Mediterranean, opening up many prospects for the region. The 2011 revolts will, I hope, lead not only to an Arab awakening but also to a European awakening. The conclusions of this book should therefore be read in the light of those revolts and the post-Lisbon environment of EU decision-making.

My research was made possible thanks to the financial support of the European Foreign and Security Policy Studies Programme of the Rijksbankens Jubileumsfond (Sweden), the Compania di San Paolo (Italy) and the Volkswagenstiftung (Germany), as well as the Department of International Relations of the London School of Economics.

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I dedicate this work to my husband Grégory, whose faith and love helped turn this project into a reality.

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### Abbreviations

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<tr>
<th>Abbreviation</th>
<th>Description</th>
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<tbody>
<tr>
<td>AA</td>
<td>Association Agreements</td>
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<tr>
<td>ACP</td>
<td>African, Caribbean, Pacific</td>
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<tr>
<td>ACSRT</td>
<td>African Centre for Study and Research on Terrorism</td>
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<tr>
<td>AENEAS</td>
<td>Programme for financial and technical assistance to third countries in the area of migration and asylum</td>
</tr>
<tr>
<td>AFSJ</td>
<td>Area of Freedom, Security and Justice</td>
</tr>
<tr>
<td>AOP</td>
<td>Action Oriented Paper</td>
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<tr>
<td>AQIM</td>
<td>Al Qaeda in the Islamic Maghreb</td>
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<tr>
<td>ARNTACT</td>
<td>African Research Network on Terrorism and Counter Terrorism</td>
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<td>AU</td>
<td>African Union</td>
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<tr>
<td>BMENA</td>
<td>Broader Middle East and North Africa</td>
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<tr>
<td>BRT</td>
<td>Brown and Root Condor company</td>
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<tr>
<td>CATS</td>
<td>Article 36 Committee</td>
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<tr>
<td>CEEC</td>
<td>Central and Eastern European countries</td>
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<td>CEPOL</td>
<td>European Police College</td>
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<td>CFSP</td>
<td>Common Foreign and Security Policy</td>
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<td>CIA</td>
<td>Central Intelligence Agency</td>
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<tr>
<td>Coreper</td>
<td>Committee of Permanent Representatives</td>
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<td>COSI</td>
<td>Committee on Internal Security</td>
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<tr>
<td>COTER</td>
<td>Counter-Terrorism Working Group</td>
</tr>
<tr>
<td>CRATE</td>
<td>Centralised Record of Available Technical Equipment</td>
</tr>
<tr>
<td>CSCE</td>
<td>Conference on Security and Cooperation in Europe</td>
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<tr>
<td>CSM</td>
<td>Common Strategy on the Mediterranean</td>
</tr>
<tr>
<td>DG</td>
<td>Directorate-General</td>
</tr>
<tr>
<td>DGSE</td>
<td>Direction Générale de la Sécurité Extérieure</td>
</tr>
<tr>
<td>DNA</td>
<td>Deoxyribonucleic Acid</td>
</tr>
<tr>
<td>DST</td>
<td>Direction de la Surveillance du Territoire</td>
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<tr>
<td>EASO</td>
<td>European Asylum Support Office</td>
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<td>EAW</td>
<td>European Arrest Warrant</td>
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<tr>
<td>EC</td>
<td>European Community</td>
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<tr>
<td>ECSC</td>
<td>European Coal and Steel Community</td>
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<tr>
<td>EEA</td>
<td>European Economic Area</td>
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<tr>
<td>EEAS</td>
<td>European External Action Service</td>
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<tr>
<td>EEBMF</td>
<td>European External Border Management Fund</td>
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</tbody>
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List of Abbreviations

EFP European Foreign Policy
EFTA European Free Trade Association
EIDHR European Instrument for Democracy and Human Rights
EMAA Euro-Mediterranean Association Agreement
EMP Euro-Mediterranean Partnership
ENP European Neighbourhood Policy
ENPI European Neighbourhood Policy Instrument
EP European Parliament
EPC European Political Cooperation
EPP European People’s Party
ERTA European Road Transport Agreement
ESDP European Security and Defence Policy
ESS European Security Strategy
ETA Euskadi Ta Askatasuna
EU European Union
Euromed Euro-Mediterranean
FBI Federal Bureau of Investigation
FIDH Fédération Internationale des Droits de l’Homme
FIFA Fédération Internationale de Football Association
FIS Front Islamique du Salut
FRONTEX European Agency for the Management of Operational Cooperation at the External Borders
GAERC General Affairs and External Relations Council
GDP Gross Domestic Product
GIA Groupe Islamique Armé
GIABA Groupe Intergouvernemental d’Action contre le Blanchiment d’Argent et le Financement du Terrorisme
GMES Global Monitoring for Environment and Security
GNSS Global Navigation Satellite System
GSPC Groupe Salafiste pour la Prédication du Combat
HI Historical Institutionalism
ICMPD International Centre for Migration Policy Development
ICPAT IGAD’s Capacity Building Programme against Terrorism
IGAD Intergovernmental Authority on Development
ILO Immigration Liaison Officer
IMO International Migration Organization
IR International Relations
IRA Irish Republican Army
JAI Justice Affaires Intérieures
List of Abbreviations

JAIEX Committee on Justice and Home Affairs and External Relations
JHA Justice and Home Affairs
JLS Justice, Liberty, Security
KAS Koordinadora Abertzale Sozialista
MEDA Mesures d’Accompagnement
MENA Middle East and North Africa
MEPP Middle East Peace Process
NATO North Atlantic Treaty Organization
NDP National Democratic Party (Mubarak’s party)
NGO Non-governmental Organization
OAS Organisation Armée Secrete
OMC Open Method of Coordination
OSCE Organization for Security and Co-operation in Europe
PCA Partnership and Cooperation Agreements
PNR Passenger Name Record
PSOE Partido Socialista Obrero Español
QMV Qualified Majority Voting
RABIT Rapid Border Intervention Teams
RCI Rational-Choice Institutionalism
RoL Rule of Law
SCIFA Strategic Committee on Immigration, Frontiers and Asylum
SFOR Stabilisation Force in Bosnia and Herzegovina
SIRENE Supplementary Information Request at the National Entry
SIS Schengen Information System
SitCen Situation Centre
SIVE Sistema Integrado de Vigilancia Exterior
TACIS Technical Assistance to the Commonwealth of Independent States
TAIEX Technical Assistance and Information Exchange Instrument
TEC Treaty on the European Community
TFTP Terrorist Finance Tracking Programme
TREVI Terrorism, Radicalism, Extremism, International Violence
TUE Treaty on the European Union
TWG Terrorism Working Group
UfM Union for the Mediterranean
UK United Kingdom
UN United Nations
UNDP United Nations Development Programme
### List of Abbreviations

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<tr>
<th>Abbreviation</th>
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<tr>
<td>UNESCWA</td>
<td>United Nations Economic and Social Commission for Western Asia</td>
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<td>UNHCR</td>
<td>United Nations High Commissioner for Refugees</td>
</tr>
<tr>
<td>UNODC</td>
<td>United Nations Office on Drugs and Crime</td>
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<td>USA</td>
<td>United States</td>
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<tr>
<td>VIS</td>
<td>Visa Information System</td>
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<td>WTO</td>
<td>World Trade Organization</td>
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Introduction

1. What is this book about?

In September 2010, Qaddafi was threatening the European Union (EU) that Europe would become a ‘black continent’ if it did not pay him €5 billion per year to stop migrants from Africa coming to Europe. This anecdote, which can now be seen from the perspective of the war in Libya, is actually sadly symptomatic of the contradictions of EU policies towards the region over the last couple of years. The initial positive spirit of the Barcelona Process was overtaken by realpolitik concerns that led Europeans to be less forceful about the promotion of normative principles such as democratization. Instead it seems that EU internal security concerns of migration, border control, security and energy took precedence over the promotion of the rule of law and democratization.

This external predominance of security concerns was paralleled by internal developments. Over the last decade, indeed, the dynamism of European integration has been driven by the completion of the Area of Freedom, Security and Justice (AFSJ) and less and less by the completion of the single market. The Stockholm Programme outlining the 2010–2014 priorities for ‘Justice and Home Affairs’¹ (JHA) policies confirms that, in spite of different decision-making rules and touching the core sovereign competences of law and order of EU Member states, integration is moving at a very fast pace. EU internal security, migration, border management, organised crime or drug trafficking are a few of the themes that are making headlines in the European press.

Interestingly enough, this policy dynamism is also rapidly developing beyond the EU’s borders. The objective to complete an AFSJ not only goes through reform within Europe but also has an external dimension. Migration, visas, readmission agreements, data protection and counter-terrorism are indeed at the heart of EU external relations. It is in this context that this book maps the inclusion of JHA considerations within the context of the EU’s relationship with its Mediterranean partners and analyses which
The Mediterranean Dimension of the European Union’s Internal Security

institutions were important in this policy process and why. This study covers the 1999–2010 period, and conclusions are drawn against the background of the Lisbon Treaty and the Arab Spring of 2011.

Investigating the cases of border management, counter-terrorism and rule of law promotion through the lens of a rational-choice historical institutional approach, I contend that the development of a JHA Mediterranean dimension was contingent upon two independent variables: states’ preferences and historical legacies. These variables are useful to understand which institutions were important in the development of the JHA Mediterranean dimension, and how they varied across policy fields. Contrary to the expected outcome, which would argue that the various decision-making rules constrained the actors, the pattern that emerges is that the development of a JHA external dimension depends on the intended strategic action of actors and is affected by time. One interesting finding is that ‘grey areas’ between decision-making rules are used by EU Member states to mitigate the effects of integration and by Mediterranean partners to influence policy processes.

This book shows that the external dimension of JHA is therefore a fragmented field across policies and geographical regions. Different decision-making rules have acted both as a constraint on actors and as an opportunity to influence policy processes. This strategic use of intergovernmental and supranational or ‘community’ rules was nonetheless bounded by a process of assimilation of institutions over time.

2. The themes of the book: EU internal security and EU relations with Mediterranean neighbours

This book studies the interaction between EU internal security and external relations. More specifically, the themes covered include ‘Justice and Home Affairs’ and the ‘Mediterranean neighbourhood’.

**Justice and Home Affairs** is one of the most dynamic policy fields of European integration, having given rise to a formidable increase in legislative texts. The Stockholm Programme, which sets the policy priorities to establish an AFSJ, lists no fewer than 170 initiatives. Police and judicial cooperation – in criminal and civil matters – as well as visa, immigration, border management and asylum issues constitutes the bulk of that legislation. JHA touches upon essential aspects of national sovereignty, and European and national citizenship, but it is also intimately linked to individual freedoms with data protection, for instance. The dynamism of this policy field, as well as the attention it has received from EU institutions and Member states, is noticeable with the Lisbon Treaty, which ranks the objective of the Union to ‘offer its citizens an area of freedom, security and justice without internal frontiers, in which the free movement of persons is ensured in conjunction with appropriate measures with respect to external
border controls, asylum, immigration and the prevention and combating of crime' before the objective of establishing an internal market (Treaty of the European Union (TEU), Article 3). This is an important evolution since, under the Treaty of Maastricht, the AFSJ was only ranked fourth in the list of the Union's objectives, behind those of economic promotion, social progress, high level of employment and achieving balanced and sustainable development. Under Lisbon, the completion of the AFSJ comes right after the first objective of the Union, which 'is to promote peace, its values and the well-being of its peoples'.

Until the entry into force of the Lisbon Treaty, JHA was fragmented over three different pillars and was consequently responding to different decision-making rules (intergovernmental and supranational). In the post-Lisbon era, despite the extension of the 'ordinary legislative procedure' (co-decision) to most of the fields of JHA, some important fields remain subjected to the intergovernmental method. A lot of safeguards are there to ensure that the intergovernmental and transgovernmental logics which have underpinned JHA integration so far remain. The findings presented in this book are therefore still very much relevant to the current post-Lisbon JHA governance.

Contrary to other EU policies, JHA is characterized by what has been labelled as 'intensive transgovernmentalism'. This means that enforcement agencies cooperate across borders, and that operational cooperation, in contrast to the traditional EU legislative dynamic, prevails in this policy field. This is the case for EU's internal security but also when it comes to the inclusion of JHA objectives and instruments in EU’s external relations. As the evaluation of The Hague Programme puts it, ‘the EU needs to anticipate challenges rather than wait for them to reach our borders, and it should promote standards, such as those for data protection, which can be regarded internationally as examples worth following. The external dimension of JHA policies needs to be fully integrated and coherent with EU external action and policies such as development cooperation’ (European Commission 2009: 16). There is therefore a clearly established link between the EU’s internal AFSJ and the need to anticipate challenges beyond EU borders via, for instance, the integration of JHA policies into development cooperation.

The analysis of the JHA external dimension developed in this book is contextualized in the Mediterranean neighbourhood. The region presents two interesting features. Firstly, the Mediterranean states have no prospect of becoming members of the EU in the foreseeable future. Secondly, the development of a JHA Mediterranean dimension is contentious given the nature of the Mediterranean regimes, where the police and the judiciary also sometimes serve the executive to maintain the status quo of their authority. The events that are unfolding at the time this volume goes to press confirm the weakness of EU policies in recent years, which have supported stability through authoritarian regimes, thereby in fact creating more sources
of instability. The EU established relations with its southern neighbours through a series of different bilateral and multilateral frameworks: the Euro-Mediterranean Partnership (EMP), the European Neighbourhood Policy (ENP), the advanced statuses and the Union for the Mediterranean.

In order to explain the choice made in this book to study the development of a JHA Mediterranean dimension it is necessary to take a step back in history. In the mid-1990s, the EU elaborated a new policy framework with its southern neighbours. The EMP consisted of a political, security, economic, social and cultural partnership between the EU and Mediterranean states. While the atmosphere surrounding the launch of the EMP in 1995 had been invigorated by the peace settlement prospects after the Oslo Agreements of 1993, the panorama soon looked rather dim. Academics and policymakers assessed the situation quite pessimistically; the EU was not living up to the expectations created on the opposite shore of the Mediterranean Sea. This trend was pointed out in 2005 on the occasion of the tenth anniversary of the Barcelona Declaration (Emerson and Noutcheva 2005; European Information Service 2005; Radwan and Reiffers 2005; Wahish 2005; Dannreuther 2007). In 2000, in Marseille, the Euro-Mediterranean foreign ministers expressed a nuanced assessment of the EMP’s implementation and insisted upon the need to revive the partnership. The thorny situation in the Middle East with the second intifada led the partners to a deadlock on the Charter for Peace and Stability. The text, which included some confidence-building measures, was supposed to reflect the thoughts of the Euro-Mediterranean partners on regional security (a mandate given to the Euro-Mediterranean foreign ministers by the Stuttgart Summit of 1999). One year later, the negotiations reached a stalemate, the Marseille Euro-Mediterranean Summit conclusions acknowledging ‘the poverty of the results attained’. Deemed to be modelled on the 1993 European Stability Pact in Central and Eastern Europe (Crawford 2004: 7), the Charter for Peace and Stability remained in draft and was removed from the agenda at the Marseille Summit. Beset with difficulties, the ambition to establish a security cooperation structure for the Euro-Mediterranean partners was left unfulfilled and the partners did not manage to agree on a common definition for ‘hard’ security cooperation. A close analysis of the Marseille Summit’s conclusions reveals, though, that the debate gradually started to broaden on ‘important topics such as terrorism and, more recently, migration and human exchanges’ (European Council 2000b: 3).

Against this backdrop, 1999 appears as a critical year for this book from both an EU and a Mediterranean perspective. From an EU integration perspective, 1999 was marked by the entry into force on 1 May 1999 of the Amsterdam Treaty and the strengthened institutionalization of the JHA pillar. It was indeed not until 1996 that the third pillar was granted a separate budget line, and in 1999 the task force for JHA was transformed into a directorate-general, following the Williamson Report (Uçarer 2001: 12).
perspective of the enlargement impelled the EU to dedicate a full summit to JHA issues with the Tampere Summit of October 1999, where the political objective of the AFSJ was declared. The summit conclusions devote a full paragraph to ‘a stronger external action’, linking the internal dimension of JHA to its external dimension. That year was also marked by the operationalization of Europol in July and the urgent need to respond to JHA challenges set by the Kosovo war refugees.

In 1999 Spain saw the accession of a right-wing government (the Aznar government) and the European People’s Party gained the majority in the European Parliament elections with a total of 233 seats. Socialist governments in England, Germany and France continued to support the road taken at the Tampere Summit on internal security, as a response to the Kosovo crisis and its subsequent refugees, as well as from the perspective of the 2004 enlargement. On the Mediterranean side, a new generation of monarchs, King Mohammed VI of Morocco and King Abdullah II of Jordan, ascended to power in 1999 with a willingness to modernize their countries, yielding a swing of position towards issues previously considered as taboo, like migration. For these reasons, the timeframe chosen for this book starts in 1999 and covers the unfolding of the JHA external dimension until 2010.

The policy framework elaborated by the EU to deal with its southern neighbours was initially the EMP, which consists of a political, security, economic, social and cultural partnership between the EU and Mediterranean states. It would be later on completed by the European Neighbourhood Policy (ENP) and the Union for the Mediterranean (UfM). Among the profusion of literature on the EMP – which describes the EU’s policy failures in the region, such as the delay of the planned creation of a Free Trade Area by 2010, the status quo of democratic and political reform in the Mediterranean, and the worsening of the state of human development (UNDP 2004) – very few academics have actually devoted effort to a systematic explanation and evaluation of the EU sectoral policies in the region. Most studies have been limited to a regionalist analysis (Adler and Crawford 2000 and 2004; Joffé 2001; Télo and Joffé 2001; Moxton-Browne 2003; Calleya 2004; Crawford 2004; Moschella 2004; Volpi 2004).

It is nonetheless problematic that this literature omitted to explain the dynamics at hand behind the EU’s governance in the Mediterranean: who is driving the policy, for what reasons, which institutions are important, and what are the instruments by which the EU pursues its objectives? There are indeed few analyses of the EU’s internal decision-making and dynamics regarding Mediterranean policy. In addition, this literature has not taken stock of the new cooperation domains generated by fifteen years of partnership. The Euro-Mediterranean relationship has indeed been marked by what is called the externalization of the EU’s internal policies to the Mediterranean. Multilateral and bilateral cooperation has enabled the EU
to diffuse its practices, policies and models to the region, which constitutes one of the goals of regional and bilateral cooperation. But what is missing is a clear picture of what kind of policies the EU has been able to export, what part of its acquis communautaire, how and for what reasons. A detailed analysis of the actors involved, the way decisions were made and which factors have influenced the externalization of internal policies to the Mediterranean is therefore needed.

There have been only a few systematic studies of the Mediterranean dimension of JHA which have gone beyond the mere analysis of the migration aspect (Escheverrai Jesus 2005; Lutterbeck 2006). The externalization of JHA to the Mediterranean region, which started in 2000 with the Common Mediterranean Strategy, includes indeed a wide variety of areas of cooperation. Fighting against terrorism, drugs, human trafficking and money laundering are key priorities in the documents of the ENP concluded with Egypt, Israel, Jordan, Morocco and the Palestinian Authority. Training of police and judicial authorities, exchange of best practices, and conclusion of conventions with Europol and Eurojust are just a few of the instruments envisaged to foster JHA cooperation in the Mediterranean. This cooperation materialized with the Measure d’Accompagnement (MEDA) Justice et Affaires Intérieures (JAI) I and MEDA JAI II programmes, which were provided a budget of €6 million and €15 million, respectively, as a result of the Valencia Action Plan agreed by the EU and Mediterranean partners in 2002. The strategy of the EU consists in a variety of instruments to foster cooperation, such as ‘twinning projects’, establishment of ‘memorandums of understanding’ and ‘exchange of good practices’. Also, regional institutions were once envisaged by the European Commission, such as a Euro-Mediterranean Centre of the High Legal Studies, a Euro-Med Interregional Centre of Police Cooperation, and a Euromed Centre of Studies of Migrations (European Commission 2005g). These features will be developed in a comprehensive analysis of JHA externalization to the Mediterranean in Chapter 2.

Following the revolts in Tunisia, Egypt and Libya, the EU is thinking about possible ways to revise its policy towards the region and to support democratization processes. The findings presented in this volume should therefore help policy-makers to draw lessons in designing their future Mediterranean JHA policies in a way that also supports democratic transition and the provision of freedom, security and justice for all in the region.

Attention towards the Mediterranean has revolved around the issue of migration and more recently the issue of terrorism, justifying the choice of the first two case studies in this book. The 1990s have been marked by new policy approaches and discourses towards migration, what Bicchi has denominated as a ‘destruens’ process, referring to the newly perceived security challenge that creates some uncertainty in the region. These resulted from the interconnection of three trends: ‘the relative increase in the numbers of migrants from the Mediterranean, the heated domestic debates about
migration; and changes in legislation about migration and about powers entrusted to the police and the army to deal with it’ (Bicchi 2007: 134). Some Member states have then looked for common solutions at the EU level and then engage in a ‘construens’ process whereby they try to find a common European solution with the rest of the Member states and EU institutions.

As shown in the following chapters, the external dimension of JHA has impacted upon the EU’s neighbours and in particular upon its southern neighbours. The last 15 years of EU relations with its Mediterranean neighbours were marked by a profusion of policy declarations regarding the need to tackle migration, to manage borders and to counter terrorism in the Mediterranean basin. Since the end of the Cold War, the Mediterranean has indeed been perceived as a source of threats by EU Member states. The transnationalization of threats has boosted cooperation between police and law enforcement actors at the European level, but also with third countries. Policemen and judges from the two sides of the Mediterranean have become increasingly cooperative, programmes have been set up, and ministries of interior and justice have taken part in multilateral and bilateral cooperation in fields, such as migration, where the EU has acquired additional competences over the years.

As this volume goes to press, the wind of the Jasmine Revolution is blowing on the Arab world, the thirst for democracy initiated in Tunisia spread to Midan al-Tahrir in Cairo and lead to the fall of Qaddafi in Libya. Protests in Yemen, Bahrain, Syria and other countries are confronting Europeans with their contradictions and the necessity to revise their Mediterranean policies. As it will be developed further later, the spirit of Barcelona, which aimed to promote democratization and common values across the Mediterranean, from 2000 onwards became highly influenced by EU internal security concerns. This was visible in the Foreign Affairs Council that took place on 21 February 2011 aiming to take a common EU position on the no-fly zone in Libya. Chaired by Baroness Ashton, the EU foreign affairs ministers could not agree at the time on any EU common position or sanctions (although subsequently they did agree on a series of sanctions). However, part of the discussions of EU foreign ministers focused on migration flows. According to a United Nations High Commission for Refugees (UNHCR) report, more than 15,000 people, almost all young Tunisian men, arrived in Italy between mid-January and the end of March 2011, the majority of them in Lampedusa (UNHCR 2011). Most of the discussions therefore concentrated on the response to migration fluxes and the demands of Italy that other EU Member states should put in place some solidarity mechanisms. What could be seen as an anecdotal account of a Foreign Affairs Council is in fact quite telling about the dominance of internal security concerns in EU foreign policy. In the same vein, the Franco-Italian Summit of 26 April 2011 reflected the extent to which the revolts in the Arab world had a direct impact on EU internal security and the calls to reform the Schengen Convention.